The image shows the front cover of a book. The spine is a solid, deep red color. The main cover area is decorated with a complex marbled pattern in shades of red, brown, and black, with some lighter, wavy lines. A circular white label is affixed to the lower-left portion of the marbled area. The label contains the text 'Dar.', 'F184', and 'B88' stacked vertically.

Dar.
F184
B88

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Book B88

VAN DYKE IN AMERICA.

To the Editor of The Press:

Sir:—In the Maryland State building on the Centennial Grounds and on the east wall of the main entrance, over a central door, hangs a full-length portrait of an ancient gentleman, to which is affixed a card with these words:

"SIR CHARLES CALVERT,

Lord Baltimore,

Painted by Thomas Sully.

Property of the

Maryland Historical Society."

At first the label read: "Charles Calvert, fifth Lord Baltimore." It is portraits of men distinguished in the old War for Independence, which are mostly copies from pictures painted from life by Charles Wilson Peale.

In Room 44 of the Annex of Memorial Hall, on the Centennial Grounds, is a portrait of Cecilus Calvert, the second Lord Baltimore, according to information given on a card affixed to it. This picture is an ancient one, and the portrait in the Maryland State building was evidently copied from it. There is no doubt of it, as the following note, addressed by the copyist to Franklin Peale, son of Charles Wilson Peale, who then possessed the original, attests:

DEAR FRANKLIN: Thank you for a kind offer in your letter of putting me in possession of the portrait of Lord Baltimore for the purpose of making a copy for the Historical Society of Maryland.

Sincerely your friend,

THOMAS SULLY.

The card on the original picture says it is a portrait of Cecilus Calvert, who was the second Lord Baltimore; the card on the copy says it is a portrait of Charles Calvert, who was the third Baron or Lord Baltimore. One of these statements must be erroneous. I propose to offer a few remarks on this discrepancy, after describing the original picture.

In the centre of the canvas stands Lord Baltimore, life-size, dressed in a coat and small-clothes of blue velvet, the coat embroidered in gold, having the open sleeves lined with silk of the very lightest shade of blue, broadened to a graceful pater. His trunk-hose are of the same delicate material and tint, with clocks of gold embroidery. His doublet is embroidered in gold and silver. This is seen beneath his neck of orange silk, and again at the back above the breast-plate of steel, which is inlaid with gold. Above the doublet is a fine lawn shirt and eravat. Below the broad sash is the belt of his sword, studded with jewels. He wears a powdered wig, and on his feet are Buck shoes with red buckles and box toes. His cocked hat lies on a table behind him, the flap looped and fastened with gems of great size. The left hand, holding a gauntlet at his side, is shaded by a ruff of fine lace, the lawn sleeve on the other arm showing the same costly bordering. The whole dress indicates wealth and rank, and the bearing of the man, whose right hand is raised to his forehead, pointing to two ships in the distance, is of commanding dignity.

The accessories are particularly remarkable in their bearing upon the question of personal identity. At the right hand of the portrait, firmly shadowed, is seen the figure of a North American Indian, wearing a feather head-dress, a quiver slung across his shoulder, and a bow in his right hand. The figure of Lord Baltimore's far-off Province of Maryland. At his left lies a quiver filled with arrows, the bow lying across it, showing him prepared to pay the tribute of "two Indian arrows, to be delivered at Windsor Castle every year, on Tuesday of each week," according to the terms of the charter granted by King Charles I. The disk which covers the quiver and the war-bow, made of the beak of the saw-fish, are products of the Chesapeake Bay, which bordered his Province. A flag of orange, with a cross of black (of which two arms are seen)—the family colors of Lord Baltimore—seen gracefully flowing from the base of a drum near by, show that all is under the command of the Baltimore title.

The sofa is of drab plush, and on its golden-fringed drapery, below the seat, is seen the coat-of-arms of Maryland, having its supports on each side a ploughman and a fisherman—both surmounted by the crown of England, indicating that Baltimore's rule was by authority. The figure of Lord Baltimore is admirably relieved by the rich hangings and dark drapery of a tent in which he stands, evidently prepared for embarkation. The tent, the ships at anchor, the Indian, which the first Lord Baltimore brought to America, the Indian, and the products of the Province grouped around him, all indicate preparations for going to his possessions beyond the Atlantic. The intelligent student of our histo-

also, Anne Arundel, daughter of Thomas Howard, Earl of Arundel, a munificent patron of art. This lady was the wife of Cecilus Calvert. This last was the first Lord Baltimore, and before Van Dyke went to England, and made only lived that painter eight years. We know that he painted her portrait, because her name appears in Smith's analytical catalogue of the works of Dutch, Flemish, and French painters, which was published in London in 1858. It is reasonable to suppose that Van Dyke painted the wife of Lord Baltimore. He also painted that of her husband. As Van Dyke died in 1641, it is also reasonable to suppose that they were both painted at the time to which the accessories of the portrait under consideration evidently point, namely, when Baltimore was contented with remaining in England. In the year 1633, to leave his family for an indefinite period. It may be asked, if the portrait of Lord Baltimore was painted at the same time with that of his wife, why does not his name appear in the catalogue of Van Dyke's works? The following history of the portrait will answer the question.

Some Puritans were driven out of Virginia by the persecutions of the public authorities there, and a part of them settled, by permission, in Maryland, on the site of the present capital of that State, and named the place Providence. It was given other names, and in 1650, that region was called a shire, with the name of Anne Arundel county, so called in honor of Lady Baltimore, who had died the year before. In 1694, Providence or Proctors, was called Anne Arundel town, and retained that name until after the accession of Queen Anne, in 1702. The following year the village was incorporated as a city, and called Annapolis. In compliance to the wishes of His Majesty, the acknowledgment of that complacency, he ordered Sir Peter (who was then the court painter) to paint her portrait in full length, and this she sent, with the portrait of Lord Baltimore which we are considering, as a gift to the new city. The portrait of the Queen represented her in the act of presenting a printed charter to Annapolis. It was then judged that in the court-room in the State House. An arm-chair had been lately built, and in it was a ball-room. On the walls of this room the portrait of Lord Baltimore was hung.

The sending of the portrait of Lord Baltimore with her own, by Queen Anne, as a gift to the city of Annapolis, is a significant fact in the chain of historical evidence that it is the likeness of Cecilus Calvert, the second Lord Baltimore of Maryland. Annapolis had borne the title of Anne Arundel, the maiden name of the wife of Cecilus, and there was eminent fitness in presenting to that town, then become the capital of the Province, the portrait of that lady's husband, to whom the whole domain was granted. It will be seen that the portrait of any of his successors have been presented as a gift to that city. The fact that the portrait had been out of England one hundred and twenty-five years, when Smith's catalogue of Van Dyke's works was printed, accounts for the non-appearance of Lord Baltimore's name in the list.

The Queen's portrait is said to have been destroyed during the War of the Revolution, when everything having the semblance of royalty was to bad odor with the republicans. That of Baltimore was preserved and still exists. The history of it from its disappearance from the walls of the hall-room until its appearance in room 44 of the Annex at Memorial Hall is not given. It will give it a few years. Charles Wilson Peale, the eminent painter of the period of the Revolution and afterwards, was a native of Maryland, and lived in Annapolis after his ninth year far toward middle life, and the slight of the portrait of Lord Baltimore, which he often sought, was a great gratification to him. I will give the earliest recollections of it, he had been told that it was painted by Van Dyke, and it was ever an object of his veneration and profound admiration. Mr. Peale made Philadelphia his home when he was between thirty and forty years of age; and late in life he went to Annapolis to enjoy the pleasure of seeing the picture which had given him so much delight in his youth. He was much surprised and surprised and indignation he found it occupied a place of dishonor and danger. The massive oak frame had become so defective from the ravages of worms that it swayed at one corner, and the dust and candle-smoke to which it had been exposed for more than a century had so obscured the picture that it was no longer an attractive object, and it was put out of sight. Mr. Peale found this precious work of art in a dark lumber-room, among old joists and broken beams, where it would soon have been lost, had it not been for the care of his friends. They neglected, when one of them said: "We would rather have the portrait of our present Governor than that of any old founder." Peale replied, "I will paint all the Governors of the State you have ever had for the picture." The Aldermen, realizing the value of the offer, were eager to make the bargain, and Peale's friend, Judge Brewer, urged him to take the precious picture and preserve it. Mr. Peale wrote his au-

thor by writing, as it must have been much smoked by the candles in the hall-room. Simply washing with water would bring away very little of it, and what was left to venture to use other means is rather doubtful. Rembrandt has a pamphlet directing in French the method of cleaning such pictures. When I have perused it I shall proceed with the work. On this, I am certain, is of importance in repairing old pictures. Where there are parts that the paint is waiting must not be painted in these spots, but a overcoat the paint pass over the old color. I have formerly done it with my fingers, for, however it may look at the moment, yet after some time the color changes darker, and thus shows the picture has been repaired.

When Mr. Peale painted the portraits of the six Governors and the Van Dyke portrait of Lord Baltimore, he was nearly eighty-three years of age. Concerning the latter picture, he wrote to his eldest son, Raphael Peale, in February, 1824:

I have finished the cleaning and repairing Lord Baltimore's portrait. It is now only what it was. It is a very high-finished picture, but I am uncertain by what painter. Rembrandt, and some others, think it was painted by Sir Godfrey Kneller. The it whom it may, it is certainly a well-known picture. I am satisfied with my bargain, more especially as I will have the credit of beginning a collection of the portraits of the Governors of Maryland. There is no doubtless be continued with a series of Governors, and, finally, be a valuable gallery of portraits.

This letter tells of the first questioning of the author of the Baltimore portrait. The venerable artist yielded his life-long conviction that it was a Van Dyke to doubt suggested by younger men, who probably formed their opinions from the fact that it was sent to Annapolis with the portrait of the Queen painted by Kneller. These are facts which show that it could not have been painted by Kneller, nor by the predecessor of the Baltimore portrait. The venerable Queen Anne died in 1702, and the portrait of Lord Baltimore died, and did not ascend the throne until twenty-seven years after that event. King William, by an arbitrary act in 1691, deprived Charles, the son and successor of Cecilus, of his political rights in Maryland, and these were not restored until 1715, a year after Queen Anne died. Meanwhile Maryland had been ruled by royal Governors as a royal Province, first by Lionel Copley, appointed in 1692, and last by John Hart, appointed in 1714. After 1691, when Maryland became a royal Province, the picture of a royal crown surmounting the Baltimore and Maryland coat-of-arms, signifying that the Province was ruled by Baltimore under royal authority, could not have been appropriately used in a picture of any of the Baltimore family.

After the death of Charles Wilson Peale, in 1827, the portrait of Lord Baltimore remained in the possession of his children, and it now belongs to his last surviving child, Titian Ramsay Peale, of Holmesburg, near Philadelphia, who permitted it to be exhibited during the Centennial Exposition in the Annex of Memorial Hall. In 1868 his brother, Franklin Peale (since deceased), had the picture backed with new canvas, himself carefully superintending the operation, and now it is in a perfect condition.

Weighing the facts and probabilities set forth briefly in this paper, the conclusion seems inevitable that the picture is a portrait of Cecilus, the second Lord Baltimore, and that it was painted by the great artist, Sir Anthony Van Dyke, who as a portrait-painter ranks next to Titian, and by some is counted equal to that master. This picture ought to belong to the State of Maryland, because it is the portrait of the founder of the Commonwealth, and who was its noble benefactor in that he made wise and liberal provisions for the freedom and happiness of its people.

A portrait of a founder of any State in Europe, so well authenticated as this, and painted by an artist far less genius than Sir Anthony Van Dyke, purchased, would be considered for and obtained by the people and rulers of such a State as a boon too precious to be lost. It would be eagerly purchased even at a cost of \$20,000, by the smallest Principality of the German Empire, or by the most insignificant of other States in Europe.

BENSON J. LORING.

The Rider, August, 1876.

The sofa is of drab plush, and on its golden-fringed drapery, below the seat, is seen the coat-of-arms of Maryland, having its supporters on each side—a ploughman and a fisherman—the whole surmounted by the crown of England, indicating that Baltimore ruled with royal authority. The figure of Lord Baltimore is admirably relieved by the rich hangings and dark drapery of a tent in which he stands, evidently prepared for embarkation. The tent, the ships (Ark and Dove) in which the first colony sailed for America, the Indian, and the products of the Province grouped around him, all indicate preparations for going to his possessions beyond the Atlantic. The intelligent student of our history knows that George Calvert, descended from a noble Flemish family, was created Baron of Baltimore, in Ireland, by James I. The latter died in 1625, and was succeeded by his son, Charles I. Charles agreed to give to Lord Baltimore a charter for the domain in America known as Maryland, but Baltimore died (April, 1632) before it was executed. His son, Cecilus Calvert, succeeded him, and received from the King a charter dated the 20th of June, 1632, and the domain included in it was named Maryland in honor of Henrietta Mary, the Roman Catholic Queen of Charles. That charter made Cecilus Calvert absolute lord of the American Province, with the royal privileges of a count palatine. The grant was given on the condition that "two Indian arrows of those parts shall be delivered at Windsor Castle every year, on Tuesday of Easter week, and also a fifth of all the gold and silver which may be found in the Province."

After making full preparations for his departure for Maryland, Lord Baltimore, considering that the interest of the enterprise would be better promoted by his remaining in England, he sent his next younger brother, Leonard Calvert, in his stead, who went with the first company of emigrants to America, and bore the commission of Governor of the Colony. The company consisted of Leonard Calvert and another brother, "with near twenty other gentlemen of very good fortune and three hundred laboring men," as Cecilus wrote to Wentworth, afterward, the unfortunate Earl of Strafford. They embarked at Cowes, Isle of Wight, on the 22d of November, 1633, in the good ship Ark, of three hundred tons and upward," which was attended "by his Lordship's pinnace, the Dove, of about fifty tons." The vessels are seen in the picture under consideration. Cecilus never came to America, and died in November, 1675, at the age of over seventy years. The terms of the charter and its requirements, and the circumstances connected with the government of the Colony, and the embarkation of the emigrants for Maryland, are all so clearly indicated in the accessories of the picture under consideration, that they show as conclusively as any circumstantial evidence can show that the portrait was painted at about the time when the expedition was ready to sail, and, consequently, that it is the portrait of Cecilus, the second Lord Baltimore. It was more than forty years after that event before his son Charles succeeded him in titles and estate. The latter had then been Governor of Maryland fourteen years, and had married the daughter of Hon. Henry Sewall, of that Province. After the death of his father, Cecilus, in 1675, Charles visited England, but soon returned to America. In 1684 he returned to England, and died there in February, 1714, aged eighty-five years, and was succeeded by his son, Benedict Calvert. For no successor of the second Lord Baltimore would the accessories of a portrait such as appear in the picture under consideration be in the least degree appropriate, while, in his case, they are eminently so; and the inevitable conclusion is, that it is a portrait of Cecilus, Lord Baltimore, and that the card upon the picture bears a correct inscription.

Granted that the picture is a portrait of Cecilus Calvert, the question arises, Who painted it? The time, the accessories, the circumstances, and the superior excellence of the painting as a work of art impels us to believe that the artist was Van Dyke, for there was no other painter then in England capable of such a performance. He was a Flemish artist, and a pupil of Rubens, whom Charles had invited to go to England in 1632, when he was 33 years of age, and was very soon afterward knighted by the King and allowed an annual pension of two hundred pounds sterling. Sir Anthony Van Dyke painted several portraits of his royal patron, also, all the members of the royal family, most of the courtiers and favorites of both sexes, and a large number of the nobility. Among others was the portrait of Wentworth (Earl of Strafford), the intimate friend and correspondent of Lord Baltimore.

been exposed for more than a century had so obscured the picture that it was no longer an attractive object, and it was put out of sight. Mr. Peale found this precious work of art in a dark lumber-room, among old joists and broken beams, where it would soon have been destroyed. He caused the city authorities to be notified of their neglect, when one of them said: "We would rather have the portrait of our present Governor than that of any old founder." Peale replied, "I will paint all the Governors of the State you have ever had for that picture." The Aldermen, regarding that as an offer, were eager to make the bargain, and Peale's friend, Judge Brewer, urged him to take the precious picture and preserve it. Mr. Peale wrote his autobiography in the third person. It is yet in manuscript, but it will appear in the "Life and Times of Charles Wilson Peale," now in course of preparation for the press, by his only surviving son, Titian Ramsay Peale. In that autobiography, after mentioning his visit to Baltimore, he says:

Before leaving he wrote to his friend, Nicholas Brewer, wishing him to take upon himself the trouble to inquire if the corporation of the city would take six portraits of the Governors elected into that office since the Revolution for a whole-length portrait of Lord Baltimore, which is in the ball-room (the place it was known as hanging), and, perhaps, not much regarded, but it was a picture he had seen as a boy and always admired. The commencing a collection of portraits, which will probably be continued by adding the portraits of living Governors to succession, will, in a future day, become very interesting, and he would find pleasure to be the author of the beginning of such a work. After his arrival in Philadelphia he received a letter from his friend, Mr. Brewer, with the order of the honorable board of the corporation accepting his offer, and also giving orders for the picture to be sent as directed.


So it was that Maryland lost one of the most precious gems of art that had ever appeared in our country; and that, too, only little more than fifty years ago, for it was in the year 1823. In June, 1824, Mr. Peale wrote at Baltimore to Dr. Cassius, of Washington city, saying:

By direction of the Honorable, the corporation of the city of Annapolis, I have to paint a portrait of my friend, the former Governor of Maryland, Colonel Stone. General Smith (of Fort Mifflin fame) informs me that you married a daughter of Governor Stone; hence I am led to hope that you possess the likeness which I am desirous to hand down to posterity in a collection of portraits of the Governors elected since the Revolution. I have now finished four of them, i. e., Johnson, Paca, Smallwood, and Colonel Howard. In the order I had from the corporation was the name of Henry (Governor in 1797), but unfortunately no portrait was made of him, which his son now greatly regrets. If you possess the portrait in question, and will permit me to make a copy of it, I shall be very thankful.

Three days afterwards (June 15) Mr. Peale wrote to his son Rembrandt, then a successful artist in Philadelphia: "Yesterday I received a letter from Dr. Cassius, of Washington. He says he has a portrait, painted by you, of Governor Stone, which he is willing to lend me, and would send it to Baltimore if I required it. But my determination is to go to Washington by to-morrow's stage, and shall have this advantage if I choose to use it, i. e., taking the portrait of Governor Sprigg, who resides a short distance from Washington. I shall write to Mr. John Lee, who resides near to Fredericktown, to know if he has a picture of Governor Lee, in which case I may take the stage from Washington to Fredericktown and make a copy, if such portrait can be had." The portraits were soon afterwards completed.

In his autobiography Mr. Peale says: "Having finished and varnished the portraits he prepared to go to Annapolis in the steamboat. * * After dining he told Mr. Brewer that he had brought the six portraits which he had finished for the corporation, and if it would be agreeable to him to let them be put into his spare parlor, in order to show the members of the corporation by invitation in the morning. This favor was readily granted. Before breakfast he unpacked and placed them in regular order, then went to Mr. Boyle's, who was Mayor of the city, to acquaint him that he had finished his engagement, if the corporation would be satisfied with the two portraits he had painted instead of Governor Lee and Governor Henry, of whom no portraits had been made. Mr. Boyle came to see the pictures; said he would give notice to the corporation to meet in the morning, to whom I drew up a short address (see page 28, 1824). Went to Nicholas Brewer's, and spent the afternoon. Returning in the evening, Mr. Boyle told him the corporation had accepted his painting."

Such is a history of the portraits of the six Governors which now grace the Senate chamber (I believe) in the venerable old State House of Maryland at Annapolis. In a letter dated at Philadelphia, January 10, 1824, Mr. Peale says: "I have taken the marble portrait of Governor Stone, and I expected to get



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AN APPEAL

TO THE

CITIZENS OF MARYLAND,

ONE OF THE UNITED STATES OF AMERICA.

*From the legitimate descendents of the Baltimore
Family.*

921

BY CHARLES BROWNING,

Of Horton Lodge, Epsom Surry, and Kingdom of Great Britain.

BALTIMORE:
PRINTED BY THOMAS R. LUSBY.
1821.

Bar
F184
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3061

AN APPEAL, &c.

GENTLEMEN,

In consequence of the failure of a memorial which Col. Duval, one of the members of the Legislature of the State of Maryland, was good enough to present for me on the 2d day of January, 1821, to the honorable the assembly of the State of Maryland, then in session, at the city of Annapolis, in the county of Anne-Arundel, in the said State of Maryland. In behalf of my mother the honorable Louisa Browning, (formerly Louisa Calvert,) the object of which not being obtained, and various reports having been circulated, as to the purport for which I came to this country ; and which are very erroneous, I think it advisable before I take any other steps that the citizens generally should be aware as to what my pretensions are, and that it is neither my wish or inclination to give trouble to any one, or put a single individual to one cent expense.

On the death of my mother's brother, Frederick the 7th, and last Lord Baltimore, who died at Naples, in Italy, the latter end of the year 1771, without issue, the honorable Louisa Browning, became entitled to the proprietaryship of the then province of Maryland, under the will of her father Charles Lord Baltimore. Frederick Lord Baltimore, on his marriage with Lady Diana Egerton, the 9th of March, 1753, made his marriage settlement, subjected expressly to the trust for Lady Baltimore's jointure, and finding he had no way of barring the entail made an application to the British Parliament for that purpose, but failed; and Lady Diana shortly after died from a hurt she received by a fall out of a Phaeton, when out with his Lordship an airing; after her decease his Lordship being bent upon cutting off the entail, on the 2d of January, 1761, executed deeds of conveyance for that purpose, however this not appearing to satisfy either the minds of his lawyers, or himself, in 1767, his Lordship suffered a common recovery, in the provincial court of this province, if the last could take effect, there was an end to his conveyance of 1761, but being conscious that neither the one or the other had any effect against the devise of his father Charles Lord Baltimore, in favor of his sister the Honorable Louisa Browning. Frederick Lord Baltimore, by his last will and testament proved in the prerogative court of Canterbury, the 12th of March, 1772, first devises his province or territory of Maryland, in America, to Robert Eden, Hugh Hammersly, Esqrs. Robert Morris, Barrister of Lincoln's Inn and Peter Provost, Esq. his executors, to raise the sum of £20,000 then he goes on to say, " and I do hereby give and devise, and him

“ said province of Maryland, and all other premises thereunto belong-
 “ ing, last mentioned unto the use of a certain youth called or known
 “ by the name of Henry Harford, the son of Hester Wheland, of the
 “ Kingdom of Ireland, born in Bond-street, and now of the age of nine
 “ years or more, and to the heirs male of his body lawfully to be be-
 “ gotten, and default of such issue to the heirs male, lawfully begotten
 “ on the body of a certain female called Francis Mary Harford, daugh-
 “ ter of the said Hester Wheland, and born in Bond-street aforesaid,
 “ and now of the age of eight years or more, and to the heirs of the
 “ said Frances Mary Harford, and if there should be failure of issue of
 “ the said Frances Mary Harford, then to the use of the Honorable
 “ Mrs. Eden, my youngest sister, and to her and her heirs, and assigns
 “ for ever. And as touching the said principal sum of twenty thousand
 “ pounds, which I have directed to be raised out of my said province,
 “ and other the premises, and to be received by my executors. I do
 “ hereby give and bequeth the sum of ten thousand pounds, part there-
 “ of to my eldest sister Louisa Browning, and to her husband, and the
 “ sum of ten thousand pounds, other part thereof to my youngest sister
 “ the Honorable Caroline Eden, and her husband, to be paid to them
 “ respectively within *six months* after my decease, with interest of five
 “ per cent till paid. Provided always, and my will and meaning is,
 “ that the respective sums of *ten thousand* pounds so given to my sis-
 “ ters, and their husbands, are given upon this express condition, that
 “ they and each of them shall and do before either of them shall receive
 “ the said sums, or either of them, or any benefit by virtue of this my
 “ last and only will, or of the said recited settlement by sufficient deed
 “ or deeds in law, to be by them duly executed, at the request, and at
 “ the costs and charges of my executors hereinafter named, ratify and
 “ confirm the said recited settlement, and the further dispositions of
 “ this my will, of the said province, and other the premises, and all
 “ and every the limitations, uses, trusts, conditions, matters and
 “ things in the said settlement, and in this my will, contained, and ex-
 “ pressed concerning the same, or in case my said sisters, or their hus-
 “ bands, or either of them shall refuse and neglect to execute such
 “ deeds of confirmation as aforesaid, within twelve months after my de-
 “ cease, or shall after my decease institute, prosecute, or promote any
 “ suit whatsoever in law, or equity, whereby, or otherwise to attempt
 “ to set aside, disappoint, frustrate, or avoid the effect of my said set-
 “ tlement or any disposition made by me of the said province or any
 “ other of my estates, real, or personal, or any part thereof, or in any
 “ manner molest or disturb any person or persons to whom any estate
 “ interest is limited by the said settlement, or in this my will, or the
 “ executors of this my will, in the use, exercise, enjoyment, and ap-
 “ portion of all my estates real and personal, or any part thereof in

“any manner whatsoever. Then, and in such case my mind and will is that the said gifts and bequests of the said respective sums of ten thousand pounds as to such of my sisters or their husbands who shall so refuse, and neglect as aforesaid, shall be and are hereby declared void and null, and of none effect to all intents and purposes, and as touching further the said legacies, of ten thousand pounds to each of my sisters, and their husbands, making together the principal sum of twenty thousand pounds; in case the said sums should not become payable according to the terms and conditions of my will, I do hereby will and direct that the said sums not become payable shall go and be received, and be retained by my executors as part of my personal estate, to be applied to the purposes, and according to the directions of this my last, and only will touching my personal estate.”

At the time of the decease of Frederick Lord Baltimore, the Honorable Mrs. Browning, was residing at a clergymans of the name of Myers, at Gretford, in Lincolnshire, within a mile of Dr. Willis's, under whose care she had been for several years. Before she married John Browning, she was in a low melancholy way, and shortly after that event took place he consulted Dr. Willis, who thought he might be of service to her, provided he had an opportunity of observing what effect, his treatment of her case had upon her system, in consequence of which John Browning let his house at Epsom, in the county of Surry, and took a house at Hackethorn, in Lincolnshire, (where your memorialist was born) within a few miles of Dr. Willis's, who then resided at a place called Nocton, in the same county. As soon as John Browning was apprised of the decease of Frederick Lord Baltimore, and the contents of his will, he gave instructions to his solicitor William Middleton, of Farrer's Buildings, Inner Temple, London, esq. to draw a case and lay it before some of the most eminent men of that day at the Chancery bar, who gave it as their decided opinion, that the Honorable Mrs. Browning, became legally entitled on the death of Frederick Lord Baltimore, without issue to the province with all its rights, titles, interest, and emoluments, and recommended the filing of a bill in chancery. A suit was accordingly instituted against the executors of Frederick Lord Baltimore, who being aware of what was about to take place had in the interim sent over to Maryland, to the then governor, Robert Eden, esq. (who was also one of the executors) an attested copy of Frederick Lord Baltimore's will, with instructions for him to get the same entered in the Register of Wills Office, and to have Henry Harford, esq. acknowledged as proprietary of the province of Maryland, by the assembly, to have all grants made under his name and seal as well as appointments to offices, &c. &c. You will observe, Mr. Eden, was at this time acting in a double capacity, he was governor under the

proprietary to whom he was also trustee, whilst under age, and for which he was to receive £100 per annum; Frederick Lord Baltimore, had also left the Honorable Mrs. Eden, a legacy of £10,000, with the reversion in fee of the province, provided that Henry and Frances Mary Harford died without issue, now the bequest of £10,000 to the Honorable Mrs. Eden, whose husband was governor and executor, with the reversion in fee of the province to herself, was a much greater legacy in proportion than the sum of £10,000 was to the Honorable Mrs. Browning, to relinquish her rights, as her father Charles Lord Baltimore, had left her the reversion in fee on the death of her brother Frederick, of the province, paying her sister, the Honorable Mrs. Caroline Eden, £20,000, (except Robert Eden, esq.) Frederick Lord Baltimore's executors, appear to have been curious people, Mr. Hammersley I did not know, but understood from my father he was a man that had but little business, and that not very respectable, and was a shrew'd keen fellow, possessing a good deal of low cunning; he was quite prime minister in the whole business, which he never failed to make use of when the occasion required it, and finding things were not likely to turn out so favourable as they wished he desired governor Eden to get the acknowledgement of Henry Harford confirmed as absolute lord and proprietary of the province, by the Assembly of Maryland as soon as possible, and to induce him to consider it would be as much for his interest as that of either Henry Harford, or his sister, proposed that two new counties should be laid out in the province, one to be called Harford, the other Caroline, Mrs. Eden's christian name, so that there was no sort of trick or manœuvre that could be practised that was not resorted to by Frederick Lord Baltimore, and his agents, to deprive his sister and her son of their inheritance, and you will observe that though all this was effected Mr. Harford's name was made use of for only one year, and had not the then province been much agitated, by a difference that existed between America and England, concerning the latter, wishing to impose taxes on the former inimical to the interest of the country. I have not the least doubt but upon reading Frederick Lord Baltimore's will, they would not have been in a hurry to have acknowledged Henry Harford, as proprietary of the province of Maryland, whose title must have appeared very doubtful, and such a one as they must have been convinced would undergo an investigation in a court of equity. During this time proceedings were going on in the court of chancery of England, against the executors, and which was in part argued before the Lord Chancellor, but between that time and the time appointed by his Lordship for a second hearing, news had arrived in England that the United States of America, had declared themselves independent of Great Britain, which the Lord Chancellor stated to the council,

on the day appointed for the further hearing of the cause, and objected to hear it, alledging it was only waste of time, as let it belong to which it would, he had no power to give the rightful owner possession ; I consider this was rather strong, his Lordship had on the first hearing said that such a property never could have been intended to descend to an illegitimate son, his Lordship was aware of the steps that had been taken by Lord Baltimore's executors, under his will, and provided his decree was in favor of the heirs at law, he was well convinced he had no power to give the heirs themselves possession, unless Great Britain conquered the United States ; what say the Senate of the State of Maryland? 19th December, 1785, in answer to a letter from the delegates of the same state, " that Henry Harford, instead of repairing to Maryland, and becoming a citizen, the memorialist confiding in the powers and success of his native country remained in England, attending on the court of chancery, and waiting the adjudication of suits which were to determine the rights to the province of Maryland, and its dependencies between the memorialist and the heirs at law, of the late Lord Baltimore, and which adjudication could have no effect, unless America should be conquered by the British government."

I think it appears perfectly clear that the *Senate* of the state of Maryland, and the *Lord Chancellor of Great Britain*, are of one, and the same opinion, and that the laws of England had no power over any property in the United States of America, after the 4th day of July, 1776, when they declared their independence.

As to Henry Harford repairing to Maryland, I cannot see on what ground he could do so unless he had come over and joined the United States, immediately after the Lord Chancellor had refused to hear the cause further argued, he was then nineteen years of age, being rather older than most young men who join the army. The Assembly of Maryland certainly had set three sessions in little more than nine months, the sessions being less than three, under the sanction of his name, as Lord proprietary of the province, which I am convinced would not have occurred at any other time, the members certainly paid little attention to his Lordship's will, or they must have observed there was no foundation for their sanctioning him, he certainly did not come under that description, unto whom I should consider they were in the least pledged to protect, under what denomination did Mr. Harford's name make its appearance ; the first time he came was to ask for money on account of property which he had never legally possessed, he certainly does not come under the charter, and I am well convinced he has not any claim under the perpetual laws which were confirmed in 1676, by the freemen of the province of Maryland, in sessions, who confirm all

grants made to Lord Baltimore, and *his heirs*. To whom is it the state of Maryland, from time to time pledge themselves to protect? (answer.) The legitimate descendants of the Baltimore family, whom they felt generously grateful to for past favors and protection, which you will find fully set forth in the laws. The more I look at the acknowledgement of Henry Harford, by the assembly of the province of Maryland, the more am I astonished to find that an assembly of gentlemen whose ancestors had lived under the protection of the proprietary government from its first institution, and who had themselves been participators in the good effects which the proprietary government, under the Baltimore family had produced, and whom they had pledged themselves to protect, could allow themselves to be persuaded to nominate a child whom they never saw, a name that they never before heard of, the son of a female who had two names,* and from whence she came they knew not, except that Frederick Lord Baltimore, in his will, (which is a disgrace to him,) says she came from Ireland; the saying a person merely came from one country or another, is saying very little of them. I think his Lordship ought to have given the gentleman his name, as he meant to leave him his fortune, as I conceive it was an insult offered to the province, and that Frederick Lord Baltimore's executors were a disgrace to have to do with, (except as I have before excepted,) Robert Morris, took his ward Frances Mary Harford, from a boarding school in the neighbourhood of London, to France, where at the age of thirteen he married her, and Peter Provost married Mrs. Hester Wheland, alias Harford, which was the name I knew her by, and which I think makes a handsome wind up of his Lordship's concerns.

My Father John Browning, instead of taking the £10,000 proffered to him in behalf of my mother, having taken the steps which I have before stated, did all he could to protect my mother's rights, who was unable to protect herself, or her son, what more could he do, I cannot see. The Assembly of the Province of Maryland had designated Henry Harford, with the title of Lord Proprietary of the province, in direct opposition to Charles Lord Baltimore's will, and in violation of theirs and their ancestors solemn pledges from time to time, to protect the Lord Baltimore's and their heirs, as proprietors of the province in all their royal rights, jurisdictions, authorities, and vehemensences, and this in support of a will, which required the Honorable Mrs. Browning's *sanction* to make it *valid*, and which fact stared these gentlemen in the face at the time; this being the case, could John Browning suppose any appeal he could make to the assembly of the province could have any effect, certainly not, therefore there was no other course for him to pursue,

* Mrs. Wheland went also by the name of Harford.

than the one he took, which was to proceed with his suit, and when the Lord Chancellor refused to hear a further argument, which only terminated in America's independence, to get what he could. My poor mother on account of her situation fortunately does not feel the ill effects. It is I who are the sufferer from this violation of yours, when the assembly gave Henry Harford, the title of Lord Proprietary of the Province, I think they forfeited that, that ought to be dear to every man, and which ought to be kept sacred by every man; when once a man loses sight of justice, and becomes ungrateful, I would not give much for his honor; ingratitude certainly is not a criminal offence punishable by law, though it sooner or later suffers from its own effects. I think you will find about this time the Land Office was opened, and that grants were made of considerable tracts of land, of which I shall hereafter make mention.

As I have before stated at the time of the *decease* of *Frederick* Lord Baltimore, I was an *infant* of little more than six years of age, and remember hearing at the time that my uncle Lord Baltimore had died, but from that time till I was about thirteen years old, I never heard any more about him, till one day when I heard my father tell Mr. Clapham, that if it had not been for the separation between England and America, I should have taken the title of Baltimore, as there was not the least doubt, but that Mr. Harford would have been made to give up that property. From time to time after I left school, which was in the year 1782, I have often heard my father talk about Maryland, and my mother's father and brother, Charles and Frederick Lord Baltimore. I knew the Rev. Jonathan Boucher, who had been in America, and that he had resided in Maryland, as also Robert Smith, but until after my father's death in 1792, and not then for some years, but being very intimate with Mr. Smith, he very often came down to Horton Lodge, and staid some time with me, when he used to relate many stories of Sir Robert Eden, and himself, and what they did in Maryland, and it was not until then that I was at all aware of its magnitude, or that my mother ever had any claim to the province, as I had understood it had been left to Lady Eden, that there had been a law suit but on what grounds I knew not. In 1795, I married, and in the month of November, in the same year I went with my wife to Edinburgh, to join the Cambridgeshire Fencible Cavalry, then quartered at Linlithgow, in which regiment I was a captain, from Scotland I went with my regiment to Ireland, where I remained till June, 1801, when I returned to England, and shortly after the regiment was disbanded. My family increasing, the times getting very hard, and having but a small income I began to turn my attention to try to increase it, which I began to do by doing the duties of an office in the Temple, of which my mo-

ther was then entitled to one sixth. I also bought a situation under the appointment of the Dean and Chapter of Westminster, of High Baliff of Westminster, I sold the latter to advantage in 1806, and the former I gave up, being much in town; whilst I held these situations I spent much of my time with my friend Robert Smith, as well as he with me in the country, and I took every opportunity I could of talking to him about America, Sir Robert Eder, and Mr. Harford, when one day he told me that the Americans had refused to give Mr. Harford, any thing when he was there, but that they had said if the real heir should come over at some future day they might do something for him, but they certainly should do nothing for Mr. Harford, and he was surprised the Edens did not goover, but that he did not understand the business, upon this I began to consider there must be something more in this business than I was apprised of; I knew that my mother was the oldest sister, therefore presumed I must be the heir that was meant, as it brought to my recollection what passed between Mr. Clapham and my father, and I went to Dr. Commons and bespoke a copy of my grandfather Charles Lord Baltimore's will, when I found that every thing was left to my mother, whom I at this time was committee of her person, but not her estates, Sir Cecil Wray, who was then a very old man, and lived at Summer Castle, in Lincolnshire, was committee of her estates, however, shortly after seeing Mr. Pinkney, was arrived in London, as ambassador from the United States of America, and that he resided in Baker-street, Manchester square, I called on my friend Mr. Robert Smith, No. 8, Holborn Court, Gray's Inn, I told him that in consequence of the conversation we had had some time before, I had got a copy of my grandfather Charles Lord Baltimore's will, that I found my mother was not only heir at law, but that her father Charles Lord Baltimore had left her the whole province with every thing thereunto belonging, and that I should be much obliged to him to introduce me to Mr. Pinkney, which he said he would do with pleasure, that he never heard before my mother was entitled to the province, but that there was something he could not understand, that Sir Robert and Lady Eden, always told him she was, however I shewed him Charles Lord Baltimore's will, and he was satisfied; we called at Mr. Pinkney's and found him at home, and Mr. Robert Smit introduced me to Mr. Pinkney, as the heir of the Baltimore family, he then related what I have before stated, he said concerning the Americans refusal to Mr. Harford, and also as to what they said about the legitimate heir, which Mr. Pinkney did not then deny, I then spoke to him myself, and asked him what chance I had of getting any thing from the State of Maryland, he said that they were very rich, that the present was a bad time, that on account of the war between England and France, politics ran very

high, but that he did not doubt but that if I came over after the peace when things were calmed down, that upon petitioning the assembly they would give me a hundred thousand pounds,* of course I waited for this event taking place, but instead of peace a war broke out between the United States of America and Great Britain, however, I from time to time used every exertion in my power to procure the necessary information, and get such papers as I was able, that might be of service to me on presenting my claim, I applied to Mr. Harford, but he said his were all left with the commissioners in England, who set some thirty years back, I then applied to Mr. Monroe, who acted as secretary to the commissioners, he told me they were all in the Treasury, I petitioned the Treasury Board, and received an order from them to have the papers, and was instructed who was to procure them for me, when after a very long search he found they had been had by some person, but who, or for what purpose he could not say, however I got some and sent out with a captain Joseph Bradney Stuart, 1816, with instructions for him to consult Mr. *Pinkney*, others I sent shortly after, and some more in the year 1818, which were all that were necessary, except, what he would be able to procure in America, and in 1816, in a letter to Col. Aspinwall, the American Consul, in London, he says, "I have received Mr. Browning's pedigree, and have consulted Judge Spencer on the case, who is clearly of opinion that Mr. Browning, can legally substantiate his claim."

On the 18th of March, 1819, Col. Aspinwall wrote to inform me he had just received a letter from Captain Stuart, to say, that he could not undertake the business, unless I sent 500 dollars and a power of attorney, the latter I refused, saying, that I would come over myself, that as for the money, I had no objection to give him that on my arrival in America. It took me sometime to arrange my affairs before I left England; this being done, I was about to set off for Liverpool to sail from thence, when Mrs. C. Browning was taken very ill, and after she recovered, my mother had a fit, so that I was delayed about seven or eight weeks. On the 1st of October, I sailed from Gravesend for New-York, where I understood Captain Stuart lived. On my arrival, I found he had left New-York and gone to Onandaga county, a distance of three hundred miles; I wrote to him several times before I could get any answer; at last he wrote me word, he was at that time particularly engaged, and it was impossible for him

*On the 31st of October, 1820, I was setting in conversation with Mr. *Pinkney*, in his house in Gay-street, Baltimore, and among other things which passed, I asked him if he recollected the conversation we had in Baker-street, London, his answer was yes, perfectly well, I then said as to the expectancies, his answer was, certainly: I should not have put this note, but for a particular reason.

to undertake my business ; I then wrote to him for my papers, which he acknowledged to Col. Aspinwall the receipt of ; he denied ever having had them ; the correspondence between us lasted some months, when I found it was needless my writing any more, and I wrote to England for fresh documents, which arrived at Annapolis in the autumn of 1820. From New-York I went to Baltimore and lodged at Mrs. Wests, the most respectable house of that description in the city ; here I meet with a gentleman who had been an officer in the revolutionary war, he was talking of old times, and was asking me about different persons who had left this country for England, and among the rest he mentioned Robert Smith whom I have before made mention of, and also related what I have before stated he told me as to what they said concerning the legitimate heir ; he said he was extremely intimate with Mr. Smith, that they lived for some time together in the government house, and that something of what I stated Mr. Smith to have told me, certainly did pass. Various people whom I have been introduced to in the state, have said to me, " you should have come sooner, you are come too late, we are now very poor, you should have come sooner ;" my reply has generally been, then you may do something according to what you are able. I hardly know a person to whom I have been introduced, that has not made this remark, which I presume you will allow is an acknowledgement that they all consider I am entitled to a remuneration as the legitimate heir of the Baltimore family, and which I trust I shall be able to convince them of, as well as that my mother *has a claim* on the state of Maryland, although some of the gentlemen could not after a full minute, and laborious examination of the laws and proceedings touching this case, find she had any claim ; there certainly must be some mistake in the business, as I am well convinced had they examined the proper laws and proceedings of the house of assembly of Maryland, they must have seen the contrary was the case ; and indeed I cannot well make out on what ground they made such a report ; if they had only read what I had stated, and which I took from the laws of Maryland, to which I have now in this statement made some addition, as well as enumerated various grants of lands and other proceedings in the land office which cannot but redound to the credit of the different Lords, proprietors of the land, whose generosity and liberality of sentiment to those who were any ways concerned, and who came within their lordship's power to render them assistance, you will find they never failed to procure, though it appears to be forgot by those who have most reason to remember such conduct, it will be a lasting satisfaction to the descendants of such a family ; if any gentleman will give himself the trouble to look over Mr. John Kilty's Landholder As-

assistant, I think I may safely say he will not find that an individual ever asked a favor that it was not granted, provided it was in the power of the lord proprietor. Some gentlemen I have understood to say, that all laws and grants made before the reign of William and Mary, have no effect now, but this is not the case, as I know many gentlemen who feel a pleasure in saying their ancestors were some of the first settlers, it was I know said in the House of Delegates last year, that the state of Maryland is composed of a new race of people, this is not the case; there are very few families in this state, who are not very nearly connected with the old ones, and if you will look through the state generally, you will find the present possessors very closely allied to the former ones. I am at a loss to judge after all I have read and seen, why the state of Maryland should act so very different from all other states in the Union, unless it was from the conduct of Frederick Lord Baltimore, in placing a person at the head of their government, whom he did not even sanction with his own name, and who after the greatest liberality on their parts, had deserted them in the time of need, at the same time being possessed of the means of rendering them every assistance that money could procure, having been left by Frederick Lord Baltimore, a very large personal fortune, and which was always at his command, being in one of the stocks in the Bank of England. As to my mother, (the honorable Louisa Browning,) and myself the case is very different, it is certainly said, I should have come sooner, very little sooner could I have come, as I did not know how the property was devised by my grandfather, Charles Lord Baltimore, or what it consisted of, sooner I might have come a few years; but then it was not considered adviseable, before I was appointed committee of my mother's estates as well as her person, I did not consider myself sanctioned; soon after which the war broke out between Great Britain and the United States, and indeed had I not made my appearance in this country before the death of my mother, I should not have been too late, but have equally come within the provisions in the acts of Assembly concerning confiscated property, which you will find hereafter quoted from the laws of the state, under which I addressed your honorable Assembly, December Sessions, 1820. I certainly agree with the gentlemen, that it must have been a very laborious examination which enabled them to make such a report as they did, and as they have not stated the grounds I presume the report was the most difficult task. Had our ancestors acted different to what it appears they did, there might be some reason for this state acting as they have done, but what do your ancestors tell you, why, that Lord Baltimore protected them, their families and property, and that they consider themselves bound in gratitude to render him what assistance is in their power in return, was it in the power of the *legitimate heir* to render you assistance in

the year 1776, it was not ; added to which you had deserted your old friends, or as I may more properly say, their legitimate descendants, for a person *who was said to be* a natural son of Frederick Lord Baltimore, do your ancestors not tell you, that the proprietor, Cæcilius Lord Baltimore, even went so far as to distribute and dispose of his cattle for the defence and preservation of the province, and are the descendants of such a man, whose family have always acted with equal liberality from father to son, up to the death of Charles, the 6th Lord Baltimore to be the marked persons to be deprived of their property at the time of the revolution, I should think not, (agreeable to an old saying, I should conceive one good turn deserves another,) if any thing could convince you the present are a new race of people, I think it is their conduct, the pure and genuine sentiment which their forefathers possessed, seem to have deserted them, and in no other way are they different, they are just in the same manner descended from the original settlers as my mother and self.

What did the Penn family do more for the State of Pennsylvania, than the Baltimore family did for the State of Maryland? This I think would be much such a task, and equally laborious as the finding the honorable Louisa Browning had no claim on the State of Maryland. Two of the descendants of Lord Fairfax who possessed immense tracts of lands in Virginia, went to England at the time of the revolution, as well as several other persons in various other States ; none of which were confiscated, except such persons who acted hostile to the interest of the United States, they were all allowed to retain their property.

It has been stated, (as I have been informed,) by a gentleman whose talents as a lawyer rank higher in his profession than most other gentlemen at this present time in the State, that Mr. Harford having been acknowledged by the Assembly of Maryland, takes away all right and title from the legitimate heir, who is both devisee as well as heir at law : However this gentlemen may wish to make it appear that what he states is the case and to be relied on. I flatter myself he would not be able to prove it, words are but wind, and unless I was to see an opinion in *writing* to that effect, with the reasons assigned and reference to the various cases in point properly attested, I cannot help thinking otherwise as there are plenty of cases to the contrary, which have occurred within these last twenty years, and nothing is more common in this country as well as in England, than for persons holding estates to which they have no right being ejected out, as was in the case of Hammond and Ridgely argued at the Court of Appeals at Annapolis, June 1821, when Judge Ridgely recovered a tract of land held by Hammond, Esquire.

The first act of Assembly that appears hostile to the legitimate descendants of the Baltimore family since the revolution is the confiscation of quit-rents; in most instances it may be found that a quit-rent of two shillings for every hundred acres, was the only rent that was paid, except for manors and reserved lands belonging to the Lord Proprietary, which had equally a reserved quit-rent as well as those lands which their Lordships gave to different persons free of fine or caution money, but reserving the usual quit-rent to their Lordships and their heirs for ever, so that gentlemen so situated, certainly voted themselves the only property that remained to the donor, on which terms either their ancestors or themselves had petitioned for the land, as most of these gentlemen, who received such grants held lucrative situations under the proprietary government, if they can accommodate such conduct to their own feelings it is needless my making any remarks on the subject, and in this point as well as most others, they seem to have the advantage of all other States, they say; "and sound policy dictates that the citizens of this state should "hold their lands on equal terms with the citizens of other States;" now the citizens of this State certainly hold their lands, not only on equal, but far superior terms to any other State, as few of the lands in general belonging to British subjects in other States were confiscated, other States pay taxes, this none; are other States behind this in agriculture or the polite arts, no, they are superior in the latter, and far before them in the former.

In the State of Pennsylvania, the Penn family are allowed to retain "all the estates, &c; and all proprietary tenths or manors surveyed "and returned into the land office on or before the 4th day of July, "1776, together with quit and other rents reserved thereon, and all "arrears thereof reserved and confirmed to the Lord proprietaries." "And also the sum of one hundred and thirty thousand pounds sterling, "to be paid out of the Treasury of the State, to the Representatives of "the late proprietaries," (which sum has been fully paid.)

If sound policy dictates that the citizens of Maryland should hold their lands on equal terms with other States, I think sound policy dictates they should be equally just as other States, if they mean to maintain a character of acting fairly and uprightly, and doing as other States do.

In the following year there is an act for the confiscation of all British property, with a proviso which it was impossible for either my mother or myself to appeal to. This is followed by another act of the same Assembly, appointing commissioners to preserve confiscated property. Immediately after and within a few days of the former act, an act is passed for the sale of confiscated British property; and after reciting

various manors, "which belonged to the late Lord pioprietary, and which remain unsold by the commissioners of Frederick Lord Baltimore," I conceive goes to exclude Mr. Harford as much as if he had never been named. These acts continue from time to time, as occasion might require, or the Assembly thought proper, with the following proviso which you will hereafter find set forth. In the act of the 12th of March, 1786, you make allowance for persons in other States who have not come in to prove their claims and order that a copy of this act under the great seal, shall be sent to the executive power of the other United States, by the Governor of this State, if the United States could not or were not aware of your laws, what could a person three thousand five hundred miles off know, who knew not what he was really entitled to ; ought not greater latitude to be granted to such a person? but if it was only meant as a form, it does not signify where a person was, or whether the act had ever been passed or not. You say in the next act, 20th January, 1787, "for want of notice or other unavoidable impediments," I think I can prove all this in the strongest terms possible, as all have occurred to me.

By an act of the 20th of January, 1787, to direct discent, all estates entailed shall remain so, until the uses of such entail or limitation shall be legally barred or destroyed, according to the course of descent heretofore used and established, and which you will find fully set forth.

You will observe that very shortly after Charles, the 6th Lord Baltimore, was re-established in the proprietaryship he repealed the act against Popery, of the 11th and 13th of William III. Ch. 4. although he was bred up a protestant. I trust I may defy any person in the whole state being enabled to prove that Charles Lord Baltimore, father of the Honorable Louisa Browning, ever acted otherwise than for the welfare of the state and the citizens thereof. Why the citizens of this state should be less inclined to do justice than the citizens of any other state in the Union I do not understand, but the reason assigned is that the Legislature are afraid of the people, and that however just or equitable the case may be, if it is to grant money they do not dare do it, whether federal or democrat, nothing being so unpopular as a vote to pay money out of the treasury ; this is what I am told, from my own knowledge I know nothing about it ; the state I will allow is not so rich as it was a short time after the great sales which were made of the proprietary's manors and reserved lands, which were valued at a very moderate rate, and much under their real value, as a few manors which were valued to the state at £42,000 sterling, sold by the State Commissioners for £116,000 currency ; the whole value of this property was under this moderate calculation stated to be worth about £350,000 sterling ; whereas agreeable to what Mr. Daniel Dulany said,

I should conceive the state realized above double that sum, and according to the above difference, between £42,000, and £116,000, being so very near what I have stated, I think there is very little probability but it was so. What Mr. Daniel Dulany says, is this, "the revenue for the support of government, fines, forfeitures, appointment to offices, presentations to livings, caution money for vacant lands, quit rent, fines of a years rent upon every alienation, escheat manors, (as they are called) reserved lands as well as the tonnage constitute the subject intended to be devised to Mrs. Browning, a subject, which I think if purchased at the price of £400,000 sterling, would be purchased at a very moderate rate, and it would seem to carry a fiction of a recompence beyond the supposition, there being no possibility of a recompence, as there is no instance of a similar estate or subject.

Let the gentlemen who voted away such a property without granting any remuneration, take into their consideration from whence they got those vast possessions they now hold, what was the liberality of their grantors, who were equally bountiful in his patronage, and which now enables these very gentlemen to hold these vast tracts of land, and live in the stile of elegance, comfort and luxury, which they do; I grudge them no part of what they possess, I bear no ill will towards them, I wish them and their families every comfort this world can afford them, all I ask is such a remuneration as I was lead to believe in London, I might receive on coming here, if not convenient for the state to grant the same in money let it be part in money, and the rest in land, and if some attention is not paid to this appeal, this state must not blame me for any step I may take. I have heard great talk of poverty, both in and out of the assembly, and indeed sometimes when it has answered the purpose of the very same gentlemen, I have heard the reverse, that this state has been possessed of immense sums of money there is not the least doubt, if they have spent it improvidently, that is no fault of the descendants of the Baltimore family, they ought not to suffer for it; is the proprietarys property to be alone taken to pay the expences of the differences between the citizens of this state and England, I say this state, because I am alone appealing to this state, I have nothing to do with other states, at the same time I cannot help remarking it does not appear any other state acted in a similar manner. If nobody is to pay money but when they have more than they know what to do with, an honest man would stand but a bad chance; however improvident this state may have been after all their expences of the revolution, misfortunes, or losses. &c. &c. of whatever description you may please to call them, they have now a funded property of \$1,233,333 74, and a revenue of between 2 and \$300,000 dollars; not a single tax of any kind, and from whence does all this property arise, but from the sale of the

property which was confiscated. In former times, I mean before the revolution, it appears to me the proprietary and the people, were as one, and the same thing, Great Britain attempting to tax the colonies had nothing to do with the proprietary, though from the conduct of the citizens of the State of Maryland, it would appear the proprietary government, and the property belonging to the same was an object worth their consideration, and which it appears they had in view at the time, and which received every facility from Frederick the 7th, and last Lord Baltimore's conduct, in trying to deprive his sister of her just rights, at the same time I have not heard that there was any cause of complaint, and I am fully convinced there would have been no more reason for this state to have complained of the conduct of the legitimate descendants had it been in their power, than there was for the State of Pennsylvania. It is to be observed that this State as well as the State of Pennsylvania, became populated upon very different terms, to what other states in the Union were, though it certainly was as much a barren desert, as any other part of the United States, until Cæcilius Lord Baltimore took possession of it under his charter, which he did at no very inconsiderable expence, and although he had many difficulties to encounter for several years he spared neither labor or expence, to protect those who resorted to Maryland, and put themselves under the proprietary government; whether they came on account of any oppression, on account of their religion, or from any other source of disquietude they were equally received with open arms by his Lordship and his Agents, and every assistance and protection was rendered them: when they arrived in Maryland, they landed in a country under the protection of a man possessed of every religious and social tie, that could make men united in the bonds of friendship, far different was it the case of thousands who landed in different parts of this wide and extensive territory; here they were assisted in their duties towards their maker in whatever manner or form that was most congenial to their wishes or inclinations, which enabled them with the assistance of his Lordship (who sold every inch of land he had in England) to protect them from the wild native inhabitants, and other designing treacherous foes, who are daily seeking the destruction of their fellow creature man. There were no incursions in this state of a similar nature to what there were in others, where hundreds were murdered without a moments notice, including themselves, wives and children, by the natives. The superiority and greatness of this state, I trust it will be allowed certainly emanated from their lordship's bountiful protection and magnanimity of heart, which I cannot but conclude when properly understood will induce you to render, as your ancestors say such remuneration for the loss so sustained as your means will afford, taking into your considera-

tion the means you are endowed with, and from whence they arose, many can help one, as in this instance ; though the day has been when one has helped many.

If even people were bound in gratitude for past favors to render services to the descendants of their patron, the citizens of Maryland certainly are. The citizens of this state like all other states fought for their liberty and independence, certainly not for the purposes of plunder, or the overthrow of a family who had nursed it in its infancy with a parents care, cherished it as a mother from their fostering hand, and when it began to feel its own consequence, as a stripling does when he verges towards the age of maturity, sought every means in their power to raise its grandure, and devote its prosperity by laying out the most advantageous spots of ground for cities, ports, and harbors, and by applying the money given for such land to the use of building public stores, and wharfs, that the inhabitants and their neighbors, might have their grain and other commodities safely and securely stored at reasonable rates, and to insure punctual and honest dealing, whence arose the great City of Baltimore, but through the same channel, and which has been the means of raising many an honest industrious man from a very obscure walk in life, to the most affluent circumstances, as well as giving bread to thousands ; this state had not like some others to contend with opposite interests to bring it to this happy crisis of its aggrandisement and magnificence, no, it had a foster brother, in the proprietary whose interest was co-extensive with the peoples welfare.

It was not here as in some other parts of the United States where might overcame right ; in this state a large portion of land was obtained at a very trifling premium, and even time given to pay that with this advantage, that you were protected by the laws of the province, equally just and equitable to any in the known world.

I have the honor to be, gentlemen,

Your very obedient humble servant,

CHARLES BROWNING.

Annapolis, 29th of July, 1821.

THE
C H A R T E R

OF

M A R Y L A N D.

Charles, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To all to whom these presents shall come greeting.

Whereas, our right trusty and well beloved subject, Cecilius Calvert, Baron of Baltimore, in our Kingdom of Ireland, son and heir of Sir George Calvert, Kt. late Baron of Baltimore, in the same Kingdom of Ireland, pursuing his father's intentions, being excited with a laudable, and pious zeal for the propagation of the christian faith, and the enlargement of our empire and dominion, hath humbly besought leave of us, by his industry and charge, to transport an ample colony of the English nation unto a certain country hereafter described, in the parts of America, not yet cultivated and planted, though in some parts thereof inhabited by certain barbarous people, having no knowledge of Almighty God; and hath humbly besought our royal majesty to give, grant, and confirm all the said country, with certain privileges and jurisdictions, requisite for the good government and state of his colony, and country aforesaid, to him and his heirs for ever,

Know ye therefore, that we favoring the pious and noble purpose of the said Barons of Baltimore, of our special grace, certain knowledge, and mere motion, have given, granted, and confirmed, and by this our present charter, for us, our heirs, and successors, do give, grant, and confirm unto the said Cecilius, now Baron of Baltimore, his heirs and assigns, all that part of a Peninsula lying in the parts of America be-

tween the ocean on the east, and the bay of Chesapeake on the west, and divided from the other part thereof by a right line drawn from the Promontory or Cape of Land called Watkins Point, (situate in the aforesaid bay, near the river of Wighco) on the west, unto the main ocean on the east ; and between that bound on the south, unto that part of Delaware Bay on the north which lieth under the fortieth degree of northerly latitude from the equinoctial, where New-England ends : and all that tract of land between the bounds aforesaid, that is to say, passing from the aforesaid bay called Delaware Bay, in a right line by the degree aforesaid, unto the true meridian of the first fountain of the River Patomack, and from thence tending towards the south unto the farther bank of the aforesaid river, and following the west and south side thereof unto a certain place called Cinquack, situate near the mouth of the said river, where it falls into the Bay of Chesapeake, and from thence by a straight line unto the aforesaid promontory, and place called Watkins Point (so that all that tract of land divided by the line aforesaid, drawn between the main ocean and Watkins Point, unto the Promontory called Cape Charles, and all its appurtenances, do remain entirely excepted to us, our heirs, and successors for ever.)

We do also grant and confirm unto the said now Lord Baltimore, his heirs and assigns, all islands and inlets, within the limits aforesaid, and all and singular the islands and ilets, which are, or shall be in the ocean, within ten leagues from the Eastern Shore of the said country towards the east, with all and singular ports, harbours, bays, rivers, and inlets, belonging unto the country or islands aforesaid : and all the soil, lands, fields, woods, mountains, fenns, lakes, rivers, bays and inlets, situate or being within the bounds and limits aforesaid, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the sea, bays, inlets or rivers, within the premises ; and the fish therein taken : and moreover all veins, mines, and quarries, as well discovered as not discovered, of gold, silver, gems, and precious stones, and all other whatsoever, be it of stones, metals, or of any other thing or matter whatsoever, found or to be found, within the country, isles, and limits aforesaid. And furthermore, the patronages and advowsons of all churches, which (as christian religion shall increase within the country, isles, ilets, and limits aforesaid) shall happen hereafter to be erected ; together with license and power to build and found churches, chapels, and oratories, in convenient and fit places within the premises, and to cause them to be dedicated, and consecrated according to the ecclesiastical laws of our Kingdom of England ; together with all and singular the like, and as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, royal rights and franchises of what kind soever temporal, as well by sea as by land, within the country, isles,

ilets, and limits aforesaid; to have, exercise, use and enjoy the same; as amply as any bishop of Durham within the bishoprick or country Palatine of Durham, in our Kingdom of England, hath at any time heretofore had, held, used, or enjoyed, or of right ought, or might have had, held, used, or enjoyed.

And him the said now Lord Baltimore, and his heirs, we do by these presents, for us, our heirs and successors, make, create, and constitute the *true and absolute Lords and Proprietaries* of the country aforesaid, and of all other the premises, (except before excepted); saving always the faith and allegiance, and sovereign dominion due unto us, our heirs and successors:

To have, hold, possess, and enjoy the said country, isles, ilets, and other the premises unto the said now Lord Baltimore, his heirs and assigns, to the sole and proper use and behoof of him the said now Lord Baltimore, his heirs and assigns for ever.

To be holden of us, our heirs and successors, kings of England, as of our Castle of Windsor in our county of Berkshire, in free and common soccage, by fealty only, for all services, and not *in capite*, or by Knights service: Yielding and paying therefore to us, our heirs and successors, two Indian arrows of those parts, to be delivered at our said castle of Windsor, every year, on the Tuesday in Easter week, and also the fifth part of all gold and silver ore within the limits aforesaid, which shall from time to time happen to be found.

Now that the said country thus by us granted and described, may be eminent above all other parts of the said territory, and dignified with larger titles: Know ye, that we, of our farther grace, certain knowledge, and mere motion, have thought fit to erect the same country and islands into a province, as out of the fulness of our royal power and prerogative, we do, for us, our heirs and successors, erect, and incorporate them into a province, and do call it *Maryland*, and so from henceforth will have it called.

And forasmuch as we have hereby made and ordained the foresaid now Lord Baltimore, the true Lord and Proprietary of all the province aforesaid: Know ye therefore moreover, that we, reposing especial trust and confidence in the fidelity, wisdom, justice, and provident circumspection of the said now Lord Baltimore, for us, our heirs and successors, do grant free, full, and absolute power, by virtue of these presents to him, and his heirs, for the good and happy government of the said province, to ordain, make, enact, and under his and their seals, to publish any laws whatever, appertaining either unto the public state of the said province, or unto the private utility of particular persons, according unto their best discretions, of and with the advice, assent, and approbation of the freemen of the said province, or the greater part of

them, or of their delegates or deputies, whom for the enacting of the said laws, when, and as often as need shall require, we will that the said now Lord Baltimore, and *his heirs*, shall assemble in such sort and form as to him or them shall seem best ; and the same laws duly to execute upon all people within the said province and limits thereof, for the time being, or that shall be constituted under the government, and power of him or them, either sailing towards Maryland, or returning from thence towards England, or any other of ours, or foreign dominions, by imposition of penalties, imprisonment, or any other punishment ; yea, if it shall be needful, and that the quality of the offence require it, by taking away member or life, either by him the said now Lord Baltimore, and his heirs, or by his or their deputies, lieutenants, judges, justices, magistrates, officers and ministers, to be ordained or appointed, according to the tenor and true intention of these presents : and likewise to appoint and establish any judges and justices, magistrates and offices, whatsoever, at sea and land, for what cause soever, and with what power soever, and in such form as to the said now Lord Baltimore, or *his heirs*, shall seem most convenient ; also to remit, release, pardon and abolish, whether before judgment or after, all crimes or offences whatsoever against the said laws : and to do all and every other thing or things which unto the complete establishment of justice, unto courts, prætories and tribunals, forms of judicature, and manners of proceeding do belong ; although in these presents express mention be not made thereof ; and by judges by them delegated, to award process, hold pleas, and determine in all the said courts and tribunals, all actions, suits and causes whatsoever, as well criminal as civil, personal, real, mixt and prætorial ; which laws, so as aforesaid to be published, our pleasure is, and so we enjoin, require and command, shall be most absolute and available in law, and that all liege people, and subjects of us, our heirs and successors, do observe and keep the same inviolably in those parts so far as they concern them, under the pains therein expressed, or to be expressed : Provided nevertheless, that the said laws be consonant to reason, and be not repugnant or contrary, but as near as conveniently may be, agreeable to the laws, statutes, customs and rights of this our kingdom of England.

And forasmuch as in the government of so great a province, sudden accidents do often happen, whereunto it will be necessary to apply a remedy, before the freeholders of the said province, their delegates or deputies, can be assembled to the making of laws ; neither will it be convenient that instantly upon every such emergent occasion so great a multitude should be called together ; therefore, for the better government of the said province, we will and ordain, and by these presents for us, our heirs and successors, do grant unto the said now Lord Balti-

more, and *his heirs*, that the said now Lord *Baltimore*, and *his heirs*, by themselves, or by their magistrates and officers in that behalf duly to be ordained as aforesaid, may make and constitute fit and wholesome ordinances from time to time within the said province, to be kept and observed, as well for the preservation of the peace, as for the better government of the people there inhabiting, and publickly to notify the same to all persons whom the same doth, or any way may concern; which ordinances our pleasure is, shall be observed inviolably within the said province, under the pains therein to be expressed; so as the said ordinances be consonant to reason, and be not repugnant or contrary, but so far as conveniently may be, agreeable with the laws and statutes of our kingdom of England; and so as the said ordinances be not extended in any sort to bind, charge or take away, the right or interest of any person or persons, of or in their life, member, freehold, goods, or chattels.

Furthermore, That this new Colony may the more happily increase by the multitude of people resorting thither, and may likewise be the more strongly defended from the incursions of savages, or other enemies, pirates, and robbers; therefore we, for us, our heirs and successors, do give and grant by these presents, power, license and liberty unto all the liege people and subjects, both present and future, of us, our heirs and successors (excepting those who shall be especially forbidden) to transport themselves and families unto the said province, with convenient shipping and fitting provisions, and thereto settle themselves, dwell and inhabit, and to build and fortify castles, forts and other places of strength, for the public, and their own private defence, at the appointment of the said now Lord *Baltimore* and *his heirs*; the statute of fugitives, or any other whatsoever, the contrary of the premises, in any wise notwithstanding.

And we will also, and of our more special grace, for us, our heirs and successors, we do straitly enjoin, constitute, ordain and command, that the said province shall be of our allegiance, and that all and singular the subjects and liege people of us, our heirs and successors, transported, or to be transported into the said province, and the children of them, and of such as shall descend from them, there already born, or hereafter to be born, be, and shall be, denizens and lieges of us, our heirs and successors, of our kingdom of England and Ireland, and be in all things held, treated, reputed and esteemed as the liege faithful people of us, our heirs and successors, born within our kingdom of England: And likewise any lands, tenements, revenues, services, and other hereditaments whatsoever, within our kingdom of England, and other our dominions, may inherit, or otherwise purchase, receive, take, have, hold, buy and possess, and them may occupy and enjoy, give, sell, alien and

bequeath ; as likewise all liberties, franchises and privileges of this our kingdom of England, freely, quietly and peaceably have and possess, occupy and enjoy, as our liege people, born or to be born within our said kingdom of England, without the lett, molestation, vexation, trouble or grievance, of us, our heirs and successors ; any statute, act, ordinance, or provision to the contrary thereof notwithstanding.

And furthermore, that our subjects may be the rather encouraged to undertake this expedition, with ready and cheerful minds ; know ye that we, of our special grace, certain knowledge, and mere motion, do give and grant, by virtue of these presents, as well unto the said now Lord Baltimore and *his heirs*, as to all other that shall from time to time repair unto that province with a purpose to inhabit there, or to trade with the natives of the said province, full licence to lade and freight in any ports whatsoever, of us, our heirs and successors, and into the said province of *Maryland*, by them, their servants or assigns, to transport all and singular, their goods, wares, and merchandise ; as likewise all sorts of grain whatsoever, necessary for food or clothing (not prohibited by the laws and statutes of our kingdoms and dominions to be carried out of the said kingdoms) without any lett or molestation of us, our heirs or successors, or of any of the officers of us, our heirs or successors ; (saving always to us, our heirs and succesors, the impositions, customs, and other duties and payments for the said wares and merchandise,) any statute, act, ordinance, or other thing whatsoever to the contrary notwithstanding.

And because in so remote a country, and situate among so many barbarous nations, the incursions, as well of the savages themselves as of other enemies, pirates and robbers, may probably be feared : Therefore we have given, and for us, our heirs and successors, do give power by these presents, unto the now Lord Baltimore, his heirs or assigns, by themselves or their captains, or other their officers, to levy, muster, and train, all sorts of men, of what condition, or wheresoever born, in the said province of Maryland for the time being, and to make war and to pursue the enemies and robbers aforesaid, as well by sea as by land, yea, even without the limits of the said province, and (by God's assistance to vanquish and take them, and being taken, to put them to death by the law of war, or to save them at their pleasure ; and to do all and every other thing which unto the charge and office of a captain general of an army belongeth, or hath accustomed to belong, as fully and freely as any captain general of an army hath ever had the same.

Also our will and pleasure is, and by this our charter we do give unto the said now Lord Baltimore, his heirs and assigns, full power, liberty and authority, in case of rebellion, tumult or sedition, if any should

happen, (which God forbid) either upon the land within the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence, by themselves or their captains, deputies or other officers, to be authorized under their seals for that purpose, (to whom we also, for us, our heirs and successors, do give and grant by these presents full power and authority) to exercise martial law against mutinous and seditious persons of those parts, such as shall refuse to submit themselves, to his or their government, or shall refuse to serve in the wars, or shall fly to the enemy, or forsake their ensigns, or be loiterers, or stragglers, or otherwise however offending against the law, custom and discipline military, as freely, and in as ample manner and form as any captain general of an army by virtue of his office, might, or hath accustomed to use the same.

Furthermore, that the way to honours and dignities may not seem to be altogether precluded and shut up to men well born, and such as shall prepare themselves unto this present plantation, and shall desire to deserve well of us, and our kingdoms, both in peace and war, in so far distant and remote a country : Therefore we, for us, our heirs and successors, do give free and absolute power unto the said now Lord Baltimore, his heirs and assigns, to confer favours, rewards and honours, upon such inhabitants within the province aforesaid, as shall deserve the same ; and to invest them with what titles and dignities soever as he shall think fit, (so as they be not such as are now used in England.) As likewise to erect and incorporate, towns into boroughs, and boroughs into cities, with convenient privileges and immunities, according to the merit of the inhabitants, and fitness of the places, and to do all and every other thing or things touching the premises, which to him or them shall seem meet and requisite ; albeit they be such as of their own nature might otherwise require a more special commandment and warrant than in these presents is expressed.

We will also, and by these presents, for us, our heirs and successors, we do give and grant licence by this our Charter, unto the said now Lord Baltimore, his heirs and assigns, and to all the inhabitants and dwellers in the said province aforesaid, both present and to come, to import or unlade, by themselves, or their servants, factors, or assigns, all merchandises and goods whatsoever, that shall arise of the fruits and commodities of the said province either by land or sea, into any of the ports of us, our heirs and successors, in our kingdoms of England and Ireland, or otherwise to dispose of the said goods in the said ports ; and if need be, within one year next after the unlading of the same, to lade the said merchandises and goods again, into the same or other ships, and to export the same into any other countries, either of our dominion or sovereign, (being an amity with us, our heirs and succes-

sors ;) provided always that they pay such customs, impositions, subsidies and duties for the same, to us, our heirs and successors, as the rest of our subjects of our kingdom of England, for the time being, shall be bound to pay : beyond which, we will not that the inhabitants of the aforesaid province of Maryland shall be any way charged.

And furthermore, of our more ample and special grace, certain knowledge, and mere motion, we do, for us, our heirs and successors, grant unto the said now Lord Baltimore, his heirs and assigns, full and absolute power and authority, to make, erect, and constitute, within the province of Maryland, and the isles and islets aforesaid, such, and so many seaports, harbours, creeks and other places, for discharge and unlading of goods and merchandizes, out of ships, boats, and other vessels, and lading them, and in such and so many places, and with such rights, jurisdictions, liberties and privileges, unto the said ports belonging, as to him or them shall seem most expedient. And that all and singular the ships, boats and other vessels, which shall come for merchandize and trade unto the said province, or out of the same shall depart, shall be laden and unladen only at such ports as shall be so erected and constituted by the said now Lord Baltimore his heirs or assigns, any use, custom or other thing to the contrary notwithstanding ; saving always unto us, our heirs and successors, and to all the subjects (of our kingdom of England and Ireland) of us, our heirs and successors, free liberty of fishing for sea fish, as well in the sea, bays, inlets, and navigable rivers, as in the harbours, bays and creeks of the province aforesaid, and the privileges of salting and drying their fish on the shore of the said province, and for the same cause to cut and take underwood or twigs there growing, and to build cottages and sheds necessary in this behalf, as they heretofore have, or might reasonably have used ; which liberties and privileges, nevertheless, the subjects aforesaid of us, our heirs and successors, shall enjoy without any notable damage or injury to be done to the said now Lord Baltimore, his heirs and assigns, or to the dwellers and inhabitants of the said province, in the ports, creeks and shores aforesaid, and especially in the woods and copses growing within the said province ; and if any shall do any such damage or injury, he shall incur the heavy displeasure of us, our heirs and successors, the punishment of the laws ; and shall moreover make satisfaction.

We do furthermore will, appoint and ordain, and by these presents, for us, our heirs and successors, we do grant unto the said now Lord Baltimore, his heirs and assigns, that he the said Lord Baltimore, his heirs and assigns, may from time to time for ever, have and enjoy the customs and subsidies, in the ports, harbours and other creeks and places

aforesaid, within the province aforesaid, payable, or due for merchandizes and wares, there to be laded or unladed, the said customs and subsidies to be reasonably assessed (upon any occasion) by themselves and the people there, as aforesaid; to whom we give power by these presents, for us, our heirs and successors upon just cause, and in a due proportion, to assess and impose the same.

And further, of our special grace, and of our certain knowledge, and mere motion, we have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm unto the said now Lord Baltimore, his heirs and assigns, full and absolute license, power and authority, that he the said now Lord Baltimore, his heirs and assigns, from time to time hereafter for ever, at his, or their will and pleasure, aliene, grant, demise or enfeof, of the premises, so many, and such parts and parcels, to him or them, that shall be willing to purchase the same, as they shall think fit, to have and to hold to them the said person or persons, willing to take or purchase the same, their heirs and assigns, in fee simple or fee-tail, or for term of life, or lives, or years, to be held of the said now Lord Baltimore, his heirs and assigns, by such services, customs and rents, as shall seem fit to the said now Lord Baltimore, his heirs and assigns; and not immediately of us, our heirs or successors; and to the same person or persons, and to all and every of them, we do give and grant, by these presents, for us, our heirs, and successors, license, authority and power, that such person or persons may take the premises, or any parcel thereof, of the foresaid now Lord Baltimore, his heirs or assigns, and the same hold to themselves, their heirs or assigns, (in what estate of inheritance soever, in fee simple or in fee tail, or otherwise, as to them and the now Lord Baltimore, his heirs and assigns, shall seem expedient) of the said now Lord Baltimore, his heirs and assigns, the statute made in the parliament of Edward, son of King Henry, late King of England, our predecessor, commonly called the statute *Quia emptores terrarum*, lately published in our Kingdom of England, or any other statute, act, ordinance, use, law or custom, or any other thing, cause or matter, thereupon heretofore had, done, published, ordained or provided to the contrary in any wise notwithstanding; and by these presents we give and grant license unto the said now Lord Baltimore and *his heirs to erect any parcels of land within the province aforesaid into manors*, and in every of the said manors to have and to hold a *Court Baron*, with all things whatsoever which to a *Court Baron* do belong, and to have and to hold view of *Franck-Pledge* (for the conservation of the peace and the better government of those parts) by themselves or their stewards, or by the lords for the time being of

other manors to be deputed, when they shall be erected: And in the same, to use all things belonging to *View of Franck-Pledge*.

And further, our pleasure is, and by these presents for us, our heirs and successors, we do covenant and grant to and with the said now Lord Baltimore, his heirs and assigns; that we, our heirs and successors, shall at no time hereafter, set or make, or cause to be set, any imposition, custom or other taxation, rate or contribution whatsoever, in or upon the dwellers and inhabitants of the foresaid province, for their lands, tenements, goods or chattels within the said province, or in or upon any goods or merchandizes within the said province, or to be laden or unladen within any the ports or harbours of the said province: and our pleasure is, and for us, our heirs and successors, we charge and command, that this our declaration shall be henceforward from time to time received and allowed in all our courts, and before all the judges of us, our heirs and successors, for a sufficient and lawful discharge, payment and acquittance; commanding all and singular our officers and ministers of us, our heirs and successors, and enjoining them, upon pain of our high displeasure, that they do not presume at any time to attempt any thing to the contrary of the premises, or that they do in any sort withstand the same; but that they be at all times aiding and assisting, as is fitting, unto the said now Lord Baltimore, and *his heirs*, and to the inhabitants and merchants of Maryland aforesaid, their servants, ministers, factors and assigns, in the full use and fruition of the benefit of this our Charter.

And further, our pleasure is, and by these presents, for us, our heirs, and successors, we do grant unto the said now Lord Baltimore, his heirs and assigns, and to the tenants and inhabitants of the said province of Maryland, both present and to come, and to every of them, that the said province, tenants and inhabitants of the said colony or country, shall not from henceforth be held or reputed as a member or a part of Virginia, or of any other colony whatsoever, now transported, or hereafter to be transported, nor shall be depending on, or subject to their government in any thing, from whom we do separate that, and them; and our pleasure is, by these presents, that they be separated, and that they be subject immediately to our crown of England, as depending thereof for ever.

• And if perchance hereafter it should happen that any doubts or questions should arise concerning the true sense and understanding of any word, clause or sentence contained in this our present Charter, we will, ordain and command, that at all times, and in all things, such interpretation be made thereof, and allowed in any of our courts whatsoever, as shall be judged most advantageous, and favourable unto the said now Lord Baltimore, his heirs and assigns. Provided always, that no

interpretation be admitted thereof, by which God's holy and truly Christian religion, or the allegiance due unto us, our heirs and successors may in any thing suffer any prejudice or diminution.

Although express mention be not made in these presents, of the true yearly value, or certainty of the premises, or of any part thereof, or of other gifts and grants made by us, our heirs and predecessors, unto the said now Lord Baltimore, or any statute, act, ordinance, provision, proclamation or restraint heretofore had, made, published, ordained or provided, or any other thing, cause or matter whatsoever to the contrary thereof in any wise notwithstanding.

In witness whereof, we have caused these our letters to be made patents; Witness ourself at Westminster, the twentieth day of June, in the eighth year of our reign. Anno 1632.

To CECILIUS, First Lord.

TO THE HONOURABLE THE
GENERAL ASSEMBLY OF MARYLAND.

The humble Memorial of CHARLES BROWNING of Herton Lodge, near Epsom, in the county of Surrey, and Kingdom of Great Britain, Esq.

SHEWETH,—

That by a grant or donation of his Majesty King Charles the First of England, under the Great Seal of England, bearing date the 20th of June, 1632, to the Right Honourable Cæcilius Lord Baltimore was constituted and appointed absolute lord and proprietary of the province of Maryland, in America, and lawful and undoubted right and title was thereby given and granted to him unto the said province, and unto all islands, ports and creeks to the same belonging.

That by an act of the House of Assembly of the said province of Maryland, Lib. C. and W. H. fol. 112; Lib. W. H. fol. 115; and Lib. W. H. and L. fol. 4 and confirmed among the perpetual laws in the year 1676, ch. 2, the said grant or donation, and the true, lawful and undoubted right and title of the said Cæcilius Lord Baltimore as absolute lord and proprietary of the said province of Maryland, unto the said province, and unto all islands, ports and creeks to the same belonging was recognised and acknowledged,

That by divers conveyances and other assignments or assurances in law, the said province of Maryland became vested in, or descended to, Charles Lord Baltimore.

That the said Charles Lord Baltimore departed this life the 24th of April, 1751, after having made and duly published his last will and testament, and which was afterwards proved in the prerogative court of the Archbishop of Canterbury, bearing date the 17th day of November, 1750, whereby he devised to trustees therein mentioned his said province of Maryland, and all his real estates in the said province, of what nature or kind soever the same were (except the manor of Ann Arundel, in the county of Anne Arundel in the said province) to the use of his only son Frederick Calvert, afterwards Lord Baltimore, in strict settlement with the reversion in fee to his, the testator's, eldest daughter Louisa Calvert.

That the said testator's son, Frederick Calvert, afterwards Lord Baltimore, departed this life on the 4th day of September, in the year 1771, without issue.

That on the 15th day of May, 1762, the above named Louisa Calvert intermarried with John Browning, late of Epsom aforesaid, Esquire, deceased, your memorialist's late father.

That the said John Browning departed this life on the 13th day of May, 1792, leaving issue of his marriage with the said Louisa Calvert, only one son, your memorialist, who was born on the 29th day of July, 1765.

That the said Charles Browning on the 7th of April, 1795, married Elizabeth Anne More, daughter of Sir William More, Bart. by whom he has issue living three sons and two daughters.

That in consequence of the difference between Great Britain and America, and the subsequent independence of America, your petitioner's mother, the said Louisa Calvert, has been deprived of her just rights in the State of Maryland which she is entitled to under the will of her said father, Charles Lord Baltimore, and which your said petitioner cannot for a moment consider was ever meant to be the case, or that the legislative government of the State of Maryland were aware of your said petitioner's mother, the said Louisa Browning's situation, or that she had any descendant, as not only the said Charles Lord Baltimore, but all his ancestors have from time to time, experienced the strongest professions and acts of friendship and attachment to them and their heirs, for the great benefits the said State of Maryland has received from the Baltimore family, and which cannot be more fully set forth than by the vote of the Assembly of the said State of Maryland, and of which the following is a copy.

"Confirmed among the perpetual laws, 1676, ch. 2."

Great and manifold are the benefits wherewith Almighty God hath blessed the colony, first brought and planted within this province of Maryland at your *Lordship's charge*, and continued by *your care and industry* in the happy restitution of a blessed peace *unto us*, being lately wasted with a miserable dissention, and an unhappy war. But more inestimable are the blessings thereby poured on this province in planting Christianity among a people that knew not God, nor had heard of Christ. All which as we recognise and acknowledge, to be done and performed next under God, by your Lordship's industry and pious intentions towards the advancement and propagation of the Christian religion, and the peace and happiness of this colony and province, *so we doubt not but our posterity will remember the same, with all fidelity to the honour of your Lordship and your heirs forever.*

In contemplation whereof we humbly beseech your Lordship, that as a memorial to all posterities among the records of your court of our Great Assembly within this province, forever to indure, of our thankfulness, fidelity and obedience, it may be published and declared by your

Lordship and the present Assembly, and enacted by authority of the same, *that we being bound thereunto by the laws both of God and man, do recognise and acknowledge your Lordship's just title and right unto this province by the grant and donation of the late King Charles of England; under the Great Seal of England; bearing date at Westminster, the twentieth of June, in the eighth year of his reign, anno domini, one thousand six hundred and thirty-two, and do also recognise and acknowledge your Lordship to be true, and absolute Lord Proprietary of this province.* And do humbly submit unto all power, jurisdiction and authority given, granted, and *confirmed unto your Lordship and your heirs, in and by the said grant and donation, and do hereby submit and oblige us, our heirs and posterities forever until the last drop of our blood be spent,* to maintain, uphold and defend your Lordship; and your heirs, lords proprietaries of this province in all the royal rights, jurisdictions, authorities and pre-eminences, given, granted and confirmed unto your Lordship, by the said grant and donation, so far as they do not in any sort infringe or prejudice the just and lawful liberties and privileges of the free born subjects of the Kingdom of England. *And we humbly beseech your Lordship to accept the same as the first fruits in this Assembly, of our fidelity and thankfulness to your Lordship, and your heirs and posterity forever; which if your Lordship will be pleased to accept; and ratify your assent, without which it can neither be complete and perfect, nor remain to posterity according to your humble desire, as a memorial of your Lordship's affections towards us, we shall add this also to the rest of the unspeakable benefits we have received from your Lordship's vigilancy over this colony."*

That on the 9th day of February, in the year 1779, your memorialist's said mother, Louisa Browning, being unable through mental derangement to govern herself or her affairs; and which took place very shortly after the birth of her said son, Charles Browning, (considerably above fifty years since) a commission was issued under the Great Seal of Great Britain, to enquire of the lunacy of the said Louisa Browning, and she was by inquisition taken thereon found to be a lunatic, and the custody of her person was granted to your memorialist's late father, and afterwards on his decease to your memorialist; as also the committeeship of his said mother, Louisa Browning's estates, soon after the decease of Sir Cecil Wray, Bart. who acted in that capacity for several years under a similar order.

That neither the said Louisa Browning, nor your memorialist, nor the said John Browning, deceased, or any person or persons entitled thereto, ever received any compensation from America for the losses so sustained by the Baltimore family, of which your memorialist and

his said mother are now in manner aforesaid the sole legal representatives.

That from the very unfortunate and much to be lamented situation of your memorialist's said mother, Louisa Browning, as also the infancy of your memorialist, it is impossible that any want of attention to the wishes or interest of the State of Maryland at the time alluded to, can be attached to either the said Louisa Browning, or your memorialist, and which your memorialist trusts your august Assembly will take fully into your consideration, as well as the great zeal and energy with which the said Charles Lord Baltimore, and his ancestors acted for the prosperity of the said State of Maryland.

That your memorialist under the peculiar hard circumstances of his case, humbly solicits such compensation for the heavy losses his family have sustained, as the liberality of the General Assembly of Maryland may think fit to grant.

And your memorialist will ever pray, &c.

CHARLES BROWNING.

Horton Lodge, Epsom, Surry.

September 29th, 1820.

Pedigree of the Baltimore Family.

Sir GEORGE CALVERT, created, 1624, Lord *BALTIMORE*, of Ireland, Secretary of State to Jac. I and received from him a Grant of the Province of Avalon, Newfoundland, and afterwards from Car. I. the Province of Maryland.

COECILIUS CALVERT, = ANN, daughter of Thomas,
Lord Baltimore, Lord Arnold of Wardour, *Annabel*
ob. 1675. ob. 1639.

JOHN CALVERT, 3 Lord Baltimore.

CHARLES CALVERT, =
4 Lord Baltimore, ob.
21 Feb. 1714, Et. 85.

BENEDICT LEONARD CALVERT, = CHARLOTTE of Edward Herry, Esq. *in free*
6 Lord Baltimore; ob. 15 Litchfield, married 2 May, 1699. ob.
April, 1715: buried Epsom. 20 July, 1731: buried at Woodford.

CHARLES CALVERT, 6 Lord Baltimore, = MARY, daughter of Sir Theodore Jare
born the 29th September, 1699 Ob. sen, of Wimbledon, Surry, Bart:
24 April, 1751; buried at Epsom Married 20 July, 1730.

FRED. CALVERT, = DIANA, daughter of the Duke of Bridgewater: JNO. BROWN = LOUISA Calvert, married Edm. = CARO-
7 Lord Baltimore: ter of the Duke ING, Horton vert, married Edm. LING C-
born 6 July, 1731: of Bridgewater: Lodge, Ep- at Hammer- alvert.
ob. 4 Sept. 1771. ob. s. p. som, Surrey. smith, 15th
May, 1762.

CHAS. BROWNING, = ELIZABETH Anne, daughter
born at Harkthorn, of Sir W. More; married
29 July, 1765. April. 1795, Stamford.

CHARLES, born buried at Ham- ilton: ob. an in- fant.	CHARLES Calvert, born at Epsom; 27 May, 1798.	LOUISA, born Londonderry, Ireland, 2nd, Sept. 1799.	FREDERIC, born at Epsom, Jan- uary, 23, 1801.	CECIL, born at Epsom, 26 May, 1802.	ELIZABETH, born at Ep- som, June 25th, 1804.
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They were all Christened at Epsom, by the Reverend Jonathan Boucher, except the first.

REPORT OF THE COMMITTEE.

The committee to whom was referred the memorial of Charles Browning, of Horton Lodge, near Epsom, in the county of Surry, and Kingdom of Great Britain, Esquire, and who appears from the documents accompanying said memorial to be the son of Louisa, daughter of the late Charles Lord Baltimore, which said Louisa was by regular process decided to be a lunatic, and the committeeship of her person and property to be in charge of the said Charles Browning, Esq. who for and in the name of the said Louisa, claims to be the heir and legal representative of the before named Charles Lord Baltimore: Report, that they have had the subject under consideration, and that on a full, and minute, and laborious examination of the very voluminous documents, laws and proceedings touching the case, your committee cannot discover that the said Charles Browning, Esquire, for and on the behalf of his said mother, Louisa Browning, formerly Louisa Calvert, has any claim on the State of Maryland. They therefore recommend that the memorialist have leave to withdraw his memorial and accompanying documents.

By Order,

SAMUEL HODGKIN, Clerk.

True Copy from the original report of the House of Delegates of Maryland, December Sessions, 1820.

JOHN BREWER, Clerk Hs. Del.

A BRIEF EXPLANATION

Of the merits on which Charles Browning has grounded his memorial to

The General Assembly of Maryland.

I should presume it is perfectly unnecessary for me to set forth the Charter or Grant made to Cæcilius Lord Baltimore, of the province of Maryland, (as I should conceive there is no gentleman in this House, who has not read the laws of his country), which Charter or Grant, conveys every thing that can be conveyed to *Cæcilius Lord Baltimore*, and *his heirs*, and which has always been strictly attended to by the General Assembly of the province of Maryland, in all their Acts, from the first institution of the province, up to the decease of the last Lord Baltimore; which acts are set forth in the memorial.

I must beg leave to observe that the enterprize was a very hazardous one, as will hereafter appear; and was undertaken by Cæcilius Lord Baltimore, under such circumstances as ought at any rate to induce the State to reimburse the descendants of such a man, on account of the money so expended, if they did nothing more. *Can there be any grounds for confiscating the property of an Insane Female and her Infant Son? When I put this question, I am confident no gentleman will say there is.* There is no man who risks his money, either as a merchant or mechanic, in trade or business of any sort, that does not expect to receive an equivalent profit or gain, according to the sum embarked, and the hazard run. It certainly must appear a peculiar hard circumstance, if the Proprietary of this Province, should be the only person who has not reaped a benefit from such an enterprize, but that the descendants of the then freemen and inhabitants of the Province, alone enjoy the benefit of his Lordship's magnanimous exertions, and who spared neither trouble nor expense, in supplying them by every means in his power to protect themselves, wives, families and property, from his own personal exertions, and the pecuniary aid which he rendered them, to accomplish which, he was under the necessity of disposing of his estates, at Denby-wiske, in Yorkshire, and from which he experienced very great inconvenience, as well as very considerable loss at the time. If such acts as these do not carry sufficient weight with them to induce the Legislative power of the State of Maryland, to make such a recompense to the legitimate heir, for the property, of which he has been deprived, and which has been confiscated and sold, I know not what will. If they act otherwise, it certainly will not be following the solemn undertaking

or wishes of their ancestors; whom they must be well convinced, from the various Acts of Assembly, that passed for the protection of the Proprietary in all his rights; but more particularly the one quoted in my Memorial, which must convince every person who reads that Act, that they were fully aware of the unparallel benefits they had received by his Lordship's exertions, and for which they felt truly grateful, and acted as men of honour always do, by trying to instil into the minds of those that were to come after them, and who were to inherit their property, an equal share of feeling and gratitude to the descendants of his Lordship; as without his Lordship's aid, they would have had no chance of retaining the property which they left to their heirs. There is no gentleman in this state, whose ancestors received Grants of land, from the Proprietary, in those days, or even up to the time of the Revolution, that does not now enjoy the advantage of them; and many there are, whose families not only experience the advantage from such grants, but from the various lucrative situations which they held under the Proprietary government; and which I conclude those gentlemen considered at the time worth accepting; and that the benefits derived from such situations, either directly or indirectly, were of much greater advantage than the mere fees of office; as their Lordship's, the Proprietaries of the province of Maryland, were continually making grants of lands to such persons as were attached to the Proprietary government; and which were invariably granted to them, free of any fine to their Lordship's. I think I may fairly say that the Proprietary, from father to son, were equally attentive to the interest and welfare of all those who wished to become settlers in the province, until Charles, the son of Cæcilius Lord Baltimore, was deprived of his government, on account of his Religion; when, of course, all those gentlemen, who held situations under the Proprietary, were at the same time displaced, and but for Benedict, the son of Charles, renouncing the Catholic Religion, and becoming a Protestant, 1713, he would have lost his estates,—(Charles died 1714—Benedict, 1715).—The first step Charles the 6 Lord Baltimore took, was to reinstate those or their descendants, who had been deprived of their situations on account of their Religion. And among the foremost is the appointment of *Charles Carroll*, Esquire; whose appointment much displeased Governor Hart, who had been re-appointed by Charles Lord Baltimore, the Proprietor . . . which had been withheld from the Baltimore family 24 years. John Hart, Governour, thought that Charles Carroll had too much power, and that it went not only to infringe on the rights of the Governor, but that it was more than an agent ought to have. 1720, Mr. Hart was displaced, and Charles Lord Baltimore, appointed his uncle, the Honorable Charles Calvert. Here ended all Religious feuds. And there was

nothing occurred to interrupt the Proprietary Government, (except some trifling skirmishes with the Indians) up to the time of the Revolution, 1776—when the property was all seized and sold, which belonged to the heirs of the Baltimore family ; and of whom the Honourable Louisa Browning, is the legal descendant, being both devisee and Heir at Law.

Cæcilius Lord Baltimore's Grant is dated the 20th of June, 1620.

Soon after obtaining this grant, Lord Baltimore fitted out a number of vessels, and sent his brother, the Honorable Leonard Calvert ; who embarked from Cowes, in the Isle of Wight, on the 22d of November, 1632, with between two and three hundred gentlemen, their wives, families and attendants, (many of whom were Irish,) for the purpose of taking possession of this unexplored country, which was then in a state of pure nature, and only inhabited by savages and wild beasts ; except as to one small tract of land, called Kent Island, which a person by the name of William Caybome, had settled upon. They arrived in the Potomack, in the spring of 1633 ; and after having sailed up that river and the Chesapeak Bay, and viewed the country, they selected for their first residence, a town belonging to the Indians, called Yaocomo, which stands upon an eminence, commanding the finest bay in the state, and I understand in the United States, with sufficient depth of water for the largest ship that ever was built, and that up to the very edge of the shore. Mr. Calvert, before landing entered into a treaty with the Indians, and purchased from them their town, with the land adjoining, for a considerable extent ; and paid them for it in such articles as were of use to the natives, and which they had brought from England for that purpose ;—and they afterwards called the tow St. Mary's, and the river that came up to it from the Potomack, by the same name. Mr. Calvert brought with him, all sorts of tools for building houses—Husbandry implements of every description for cultivating the land, a considerable stock of provision, and a sufficient supply of clothing, so as to protect them against any difficulties that might arise from the hostilities of the natives on their attempting to land.

Mr. Calvert and his adherers, lived on the most friendly terms with the Indians for some years, and it is presumed would have continued to do so ; but having given Mr. W. Claybome notice that the settlement which he had made on Kent Island, was an infringement against Cæcilius Lord Baltimore's grant or charter ;—he pretended to set up a right, on account of his having permission in the first instance ; and afterwards

a license under the King's sign manual, to trade with the Indians in that part of America, for which no exclusive patent had before been granted; and finding Lord Baltimore was determined not to give way to his pretended grant, he commenced hostilities against his Lordship's measures—and his schemes and proceeding were very unfair and insidious. He insinuated by his intrigues with the Indians, that the comers were Spaniards, and enemies to the Virginians. He spared no pains in his power to overturn Lord Baltimore's Charter—And a war broke out between the Indians, of which he was the instigator. And finding himself too weak to contend with his Lordship's party, he represented his claims and injuries to the King, who referred the whole matter in dispute, to the Commissioners of Colonies, and on hearing all parties, the 4th of April, 1638, it was determined that the lands in question, belonged absolutely to Lord Baltimore,. 1634, orders were given by Lord Baltimore for seizing William Clayborne, if he did not submit to his government—he being at that time at the head of a refractory banditti. He was not taken, but added to his refusal of obedience, the ill offices, that have already been mentioned.

“ The first General Assembly, began and held at St. Mary's, was on the 26th of January, 1637, and ended the 24th of March following.

“ The Honourable LEONARD CALVERT,

“ *Lieutenant General.*

“ The various Bills passed at this Assembly, the titles of which only remain, were never enacted into laws, nor are any copies of them to be found among the records.

“ At this Assembly a bill for the attainder of William Clayborne, was brought in.

“ One Thomas Smith was also found guilty of piracy, but this being the first Assembly, of course there existed no power in the Lieutenant General to punish either by life or member, unless by laws made in the Province.

“ At a General Assembly began and held at the Fort of St. Mary's, 25th day of February, 1638, and the same day removed to St. John's, and there continued till the 19th day of March, during which various laws were enacted.

The Honourable LEONARD CALVERT, *Lieut. General.*

"An Act for establishing the House of Assembly, and the laws to be made therein. c O. fol. 128. and Lib. c and W. H. fol. 61.

"By this Act, the first regular Act of Assembly, was constituted (persuant to the writs issued,) which was to consist of such representatives, called Burgesses as should be elected under his Lordship's special writ. And all Acts assented to by the majority, and afterwards approved of by the Lieutenant General, in the name of the Lord Proprietary, shall be adjudged and established for laws, as if his Lordship, and all the freemen of the province were personally present, and did assent, &c."—[Passed 25th February, 1638.]

An Act of Assembly passed this session for building of the Town House at St. Mary's, which took two years to complete—and on the 21st of March, 1641, the Assembly was removed back to St. Mary's, and the Assembly was continued from time to time to be held there, till the last day of February, 1694; when the General Assembly was removed to a town called Ann Arundel, in the county of Ann Arundel, which was afterwards constituted into a port and called Annapolis, where the Assembly have ever since continued to set.

This session was of but very short duration, having only lasted from the 21st to the 23d of March, 1641.

"An Act for granting one Subsidy, Lib. c, and W. H. fol. 76, E.X.P."—[Passed 23d of March, 1641]

N. B. "The freemen of this province (as set forth in the preamble) out of their desire to return his Lordship some testimony of their gratitude for his Lordship's great charge and solicitude in maintaining the government, and protecting the inhabitants in their persons, rights and liberties, and to contribute some support towards it, so far as the young and poor estate of the colony will yet bear, do desire that it may be enacted, &c."

"And the Subsidy, granted was 15 lb. of Tobacco per poll, and cask for every inhabitant of the province, male and female children under the age of twelve years excepted, to be paid according to the lists or returns made by the several house-keepers, between the 25th of July and the 25th of August next, under the penalty of 30 lb. of tobacco for every such taxable concealed, &c."

"At a session of General Assembly, began and held at St. John's, on the 12th and ended on the 23d day of October, 1640, were enacted the following laws. which were published under the great seal, the 30th day of the same month."

"The Honorable LEONARD CALVERT, Esq.

Lieutenant General."

"CHAP. I."

"An Act for Church Liberties. Lib. c. and W. H. fol. 67. and 106; Lib. W. H. fol. 111, and Lib. W. H. and L. fol. 1."—[Passed 23rd of October, 1640.]

"Confirmed as a perpetual Law, by 1676. Ch. 2.

And enacts, that Holy Church within this province, shall have and enjoy all her rights, liberties and franchises, wholly and without blemish."

"CHAP. III."

"An Act providing against sudden accidents in the government. Lib. c, & W. H. fol. 68, & III. Lib. W. H. fol. 111, and Lib. W. H. & L. fol. 4."

"Confirmed as a perpetual Law, 1676. Ch. 2.

And enacted, that all Commissions from or under the Lord Proprietary which shall be in force at his death; shall remain in the same force, until a new Commission for the government, published under the great seal; and in case the Lieutenant General shall de- cease, or be absent out of the province, without nominating or substituting another in his room, the first Counsellor of State, residing at St. Mary's, shall exercise the office of Lieutenant General, in all points belonging to it, until his return into the province, or that another be appointed by the Lord Proprietary."

The Proprietary, in conjunction with the freemen from this time, were particularly energetic in the enactment of laws and establishing courts, for the good order of the province, wherein causes were to be heard and determined, stating the nature of offences, and awarding the punishments to be inflicted according to the crime committed, either against the province or an individual, protecting the honest man from the rogue; holding out encouragement to the industrious, and punishment to the dissipated and worthless—And continued from time to time, to enact such laws as were necessary for the protection and prosperity of the freemen and inhabitants of the province, in their religious & worldly rights, not only from any foreign foe, but an internal one. And were going on in comfort and prosperity in their juvenile settlement, until they were broke in upon by the revengeful disposition of William Clayborne—who being disappointed in his appeal to the British government, 1638, now associated with its opposers—among whom was one captain Richard Ingle, who through their intrigues, found means in the year 1644, to raise an insurrection against the Proprietary government—when the Governor, the honorable Leonard Calvert, retreated to Virginia for aid—they seized on the records and the great seal, which

last was never recovered. These men, with their adherents, assumed the administration of the government, and kept the province, for about two years in a state of anarchy and confusion—during which time, very few laws were enacted, or very little business done until 1649; when, through the vigilance of his Lordship, the freemen and inhabitants of the province, good order was re-established, and a free pardon, with a few exceptions, was offered to all who came in and submitted allegiance to the Proprietary government, immediately on the troubles being settled. Lord Baltimore being anxious to reward those gentlemen, who had been most strenuous in their exertions, to oppose William Clayborne, Captain Ingle and their adherents, made grants of manors to them, reciting in such grants the meritorious services these gentlemen had rendered the province. By the watchfulness of the government, William Clayborne and his associates were for some years kept tolerable quiet, though at the same time they used every means in their power, by misrepresenting every thing that took place, to spread discontent among the Indians—to induce them to commit all sorts of depredations and acts of hostility against the Proprietary government, which was the means of putting his Lordship to a considerable expense, and also preventing the freemen and inhabitants extending their improvements to the extent they otherwise would have done. The last Assembly, held by the honourable Leonard Calvert, governor, was at St. Inegoe's Fort, 1646, when very little business was done, as they only set from the 29th of December to the 2nd day of January following, and but in two instances are any traces of the Acts or proceedings to be found.

Early in the year 1647, Thomas Greene, Esq. was appointed Governor, and on the 20th day of January, commenced a session of Assembly, at St. Johns, which ended the 4th day of March following. The Acts of this Assembly do not appear to be recorded.

Acts and orders of Assembly, assented to, enacted and made at a general session of the said Assembly, begun and held at St. Mary's, on the 2nd day of April, 1649, and ended the 21st day of the same month. The following among other laws were enacted.

“WILLIAM STONE, Esq. Governor.”

CHAP. I.

"An Act concerning Religion. Lib. c. and W. H. fol. 106. Lib. W. II. fol. 111, and Lib. W. H. and L. fol. 1.—[Passed 21st of April, 1649.]

Confirmed among the perpetual Laws, 1676, Ch. 2.

N. B. "By this Law, (1) blasphemy against God, denying our Saviour Jesus Christ to be the Son of God, or denying the Holy Trinity, or Godhead of any of the Three Persons, &c.; was to be punished with death, and confiscation of lands and goods to the lord Proprietary. (2) Persons using any reproachful words or speeches concerning the blessed Virgin Mary, mother of our Saviour, or the Holy Apostles, or Evangelists, or any of them, for the first offence to forfeit 5*l.* sterling to the lord Proprietary; or in default of payment to be publicly whipped, and imprisoned at the pleasure of *his Lordship or his Lieutenant General*. For the 2*d* offence to forfeit 10*l.* sterling; or in default of payment, to be publicly and severely whipped, and imprisoned as before directed. And for the 3*d* offence, to forfeit lands and goods, and be forever banished out of the province. (3) Persons reproaching any other within the province, by name or denomination of Heretic, Schismatic, Idolater, Puritan, Independent, Presbyterian, Popish Priest, Jesuit, Jesuited Papist, Lutheran, Calvinist, Anabaptist, Brownist, Antinomian Barrōwist, Round-Head, Seperatist, or any other name or term, in a reproachful manner, relating to matter of religion, to forfeit 10*s.* sterling for each offence—one half to the person reproached, the other half to his Lordship: Or, in default of payment, to be publicly whipped, and suffer imprisonment without bail or main prize, until the offender shall satisfy the party reproached, by asking him or her respectively forgiveness, publicly for such offence, before the chief officer or magistrate of the town or place where the offence shall be given. (4) Persons profaning the Lord's day, by frequent swearing, drunkenness, or by any uncivil or disorderly recreation, or by working on that day (unless in case of absolute necessity) to forfeit for the first offence, 2*s.* 6*d.* sterling; for the second offence, 5*s.* sterling, and for the third offence, and every other offence afterwards 10*s.* sterling: and in default of payment for the 1st and 2*d* offence, to be imprisoned till he or she shall publicly, in open court, before the chief commander, judge, or magistrate of that county, town or precinct, wherein such offence shall be committed, acknowledge the scandal and offence he hath in that respect given against God, and the good and civil government of his province: and for the third offence and every time after, to be publicly whipped. (5) And whereas the enforcing of the conscience in matters of religion, hath frequently fallen out to be

of dangerous consequence in those common wealths, where it hath been practised, and for the more quiet and peaceable government of this province, and the better to preserve mutual love and unity among the inhabitants, &c. No person or persons whatsoever, within this province, or the islands, ports, harbours, creeks or havens thereunto belonging, professing to believe in Jesus Christ, shall, from henceforth, be any ways troubled, molested, or discountenanced, for, or in respect of his or her religion, nor in the free exercise thereof within this province.

“(Or the islands thereunto belonging, nor any way compelled to the belief or exercise of any other religion, against his or her consent, so as they be not unfaithful to the Lord Proprietary, or molest or conspire against the civil government established, or to be established, in this province, under him or *his heirs*. And any person presuming, contrary to this Act and the true intent and meaning thereof, directly or indirectly, either in person or estate, wilfully to disturb, trouble, wrong or molest any person whatsoever within this province professing to believe in Jesus Christ, for or in respect of his or her religion, or the free exercise thereof within this province, otherwise than is provided for in this Act, shall pay treble damages to the party so wronged and lested, and also forfeit 20s. sterling for every such offence, &c.; one half to his Lordship, the other half to the party molested: and on default of paying the damage or fine, be punished by public whipping, and imprisonment at the pleasure of the Lord Proprietary, &c.”

“CHAP. II.”

“An Act for punishment of such as shall counterfeit the Lord Proprietary, or his *heirs* Lords Proprietary's of this province great seal of this province. Lib c, and W. H. fol. 118. Lib. W. H. fol. 147, and Lib. W. H. and L. fol. 8.”—[Passed 21st of April 1649.]

“Confirmed among the perpetual Laws, 1676, Ch. 2.”

CHAP. III.

“An Act concerning purchasing lands from Indians. Lib. c, and W. H. fol. 114. Lib. W. H. fol. 116, and Lib. W. H. and L. fol. 5.”

“Confirmed among the perpetual Laws. 1676 Ch. 2.”

N. B. “The preamble recites, that divers persons have heretofore purchased or accepted of lands, &c. from the Indians, and made use and possessed the same, without any lawful title and authority derived from the Lord Proprietary, neglecting also to take out grants from his Lordship under the great seal, for such lands as have been due to them, by virtue of his Lordship's conditions of plantations, or other warrant from his Lordship, which proceedings are not only very great

contempts and prejudice to to *his Lordship's* dignity and *rights* but also of such dangerous consequences, if not timely prevented, that they may hereafter bring a *great confusion* in the *government*; and public peace of *this province*. Be it therefore exacted by the *Lord Proprietary*, with the assent and *approbation* of the *upper* and *lower* house of *this Assembly*, &c. (1) All purchasers or acquisitions whatsoever, of any *lands*, &c. within *this province*; made or to be made, from any person whatsoever, not deriving at the same time a lawful title thereto, by, from, or under *his Lordship* or *his heirs*, under the *great seal* shall be *void* and *null*. (2) It shall be lawful for *his Lordship* to enter upon, *seize*, possess and dispose of any such *lands*, &c. so purchased or acquired from any *Indian* or *other*, at his will and pleasure, unless such purchaser, at the time of such purchase or acquisition, have some lawful right or title to such lands, &c. by some *grant* from his *Lordship*, &c. under the *great seal*."

"Act for the support of the Lord Proprietary, R. E. P. 1676, Ch. 2."

N. B. "This Act (that his Lordship might better perceive the good will of the freemen in complying with his Lordship, so far as their poor distracted condition could well bear; and to the end that he might be the better encouraged and *enabled to protect them in their lives, liberties, and estates*) gave a custom to his Lordship of 10s. per hundred on all tobaccoes shipped upon any Dutch vessel, and bound for any other port than his Majesty's, for seven years, on forfeiture of all tobaccoes chargeable with custom, transported, or attempted to be transported, afore discharge had under the hand of the Governor. One half to be yearly employed towards satisfaction of all arrears and claims, touching the late recovery and defence of the province, which should be brought into the secretary's office and made appear to be due, before the last day of March ensuing, &c. And an assessment also to be raised on all the inhabitants for his Lordship's use, for replacing his Lordship's *former stock of cattle, distributed and disposed* towards the defence and *preservation of the province*, &c.—Passed 29th of April, 1650.

"An Act concerning deserted plantations. Lib. W. H. fol. 125. Lib. c, and W. H. fol. 132; and Lib. W. H. and L. fol. 16."—[Passed 29th of April, 1650.

"Confirmed among the *perpetual Laws*, 1676. Ch. 2."

N. B. By this law, (1) his Lordship was enabled, for all manors, lands, &c. heretofore taken up or seated, and for four years last past or longer deserted or left uninhabited, and his Lordship's rents not paid, unless the person's claiming right to such lands, (*orphans under 16 excepted*), should before the 25th of next March, make out their claims, take grants thereof under the great seal, where such grants had not been heretofore legally passed, and satisfy his Lord-

ship's arrears of rent! to grant the same or any part thereof, to any other persons desiring the same, &c. (2) And that for all other manors, lands and plantations; already taken up or seated within this province, (*not* belonging to any *orphans* under 16 years of age;) which shall happen to be deserted or left uninhabited, by such as shall then have or may claim to have any right or title thereto, and *his Lordship*, or *his heirs*, Lords and proprietaries of this province, his or their rents due for the same, not paid for three years together: it shall in like manner, at any time after the expiration of the said three years, together be lawful, for his Lordship, &c. to grant the same, or any part thereof, to any other person or persons, who shall desire grants thereof according to the conditions of plantations then in force, &c.

CHAP. XXIII.

"An Act of recognition of the lawful, and undoubted right and title of the Right Honourable Cæcilius Lord Baltimore, absolute Lord and Proprietary of the province of Maryland, unto the said province, and unto all islands, ports, and creeks to the same belonging. Lib. c and W. H. fol. 112. Lib. W. H. fol. 115, and Lib. W. H. and L. fol. 4." *This is set forth in my memorial at full length.*

CHAP. XXVI.

"An Act concerning the levying of war within this province. Lib. 3, and W. H. fol. 119, and Lib. W. H. fol. 117, Lib. W. H. and L. fol. 9.

"Confirmed among the perpetual Laws, 1676. Ch. 2."

S. 3. "And be it further enacted by the authority aforesaid, that all charges arising from time to time, by defence of the province against any invasion of an enemy or enemies; or against any domestic insurrections or rebellions against the public peace of this province, or the government established herein, and under the *Lord Proprietary*, and *his heirs*, Lords *Proprietaries of this province*, shall be defrayed by this province, by an equal assessment upon the persons and the estates of the inhabitants thereof, any thing in this Act, or in any other Act, to the contrary in any wise notwithstanding."

CHAP. XXVIII.

"An Act for the speedy payment of debts due to the Lord Proprietary, Lib. c and W. H. fol. 120. Lib. W. H. fol. 67. and Lib. W. H. and L. fol. 9."

"Confirmed among the perpetual Laws, 1676. Ch. 3."

"Be it enacted by the Lord Proprietary, of this province, with the consent and approbation of the upper and lower house of this assembly, that all debts which either are or shall be from time to time, really and truly due to his *Lordship*, or *his heirs*, Lords *Proprietaries* of *this province*, shall be first paid and satisfied, within the said province, before any other debts whatsoever."

We now come to Oliver Cromwell's usurpation; William Stone, Governor, was displaced 1651, and in September the same year a commission was issued to William Clayborne, Richard Bennitt and Edmund Curtis, who in consequence of the opposition, these men had before received from Thomas Green, Esq. the former Governor; they used all the means in their power to instil into the mind of the Protector that the Lord Proprietary of the province of Maryland by proclaiming the nominal accession of Charles the 2nd, and the granting a pardon as is usual on such occasions, meant to act hostile to the protector's authority, which from the appointment of these men, appears to have had the effect wished, their commissioners being for the purpose of reducing, settling, and governing the colonies in the Bay of the Chesapeake; and in the year 1652 various orders were issued by these commissioners, and the province was reduced to the obedience of the commonwealth, but remained in the hands of the proprietary until the year 1654, Bennett and Clayborne appointed William Fuller and Richard Preston, and eight other commissioners for well ordering, directing and governing the affairs of Maryland under the Lord Protector. All power was taken from Lord Baltimore and his officers, and the provincial records were delivered up to the new Secretary, (Durand.) The encroachment against Lord Baltimore's government began to wear so serious an aspect, that captain William Stone, the governor, was proceeding to take measures to stop its progress, when Bennitt and Clayborne, with their associates, whose number had considerably increased, but more on account of their religious principles, than attachment to their leaders (Bennitt and Clayborne). However, contentions had arisen to such a height between the parties, that a civil war ensued; and each party having taken up arms, to the number of between three and four hundred a side, they had many trifling engagements, which at length terminated in a decisive battle, in favour of Clayborne's party. Captain William Stone, the governor, was taken prisoner, and condemned to be shot, but the sentence was not put in force, the soldiers refusing to obey the order, on account of the very great regard they had for governor Stone, and the gratitude they felt towards him for the many services he had rendered them, as also the high character he had borne in the province. However, he experienced a long and rigorous confinement, which was co-existent with their

power. Oliver Cromwell's commissioners, who were appointed for a bad purpose, and through a bad channel, it is therefore not to be supposed were men of much character; or that they possessed much regularity or system; but it is considered; that them and their followers were a loose, idle, disorderly set of people, ready for any enterprize, so that there was little chance of preserving the publick tranquillity for any length of time; and, indeed so it turned out, as in the year 1656, one Josias Fendall, a man of very restless and intriguing disposition, found means to raise an insurrection; but this commotion, which was of short duration, served only to increase the oppression and severity of the new administration, and put the province in a more distracted state. Previous to the year 1658, the proprietor had appointed Josias Fendall, governor, conceiving him to be a man of high spirit, and of a resolute disposition, considered he would be a proper person to encounter with his Lordship's enemies. In this year, Josias Fendall, governor, held a General Assembly at St. Leonards, on the 27th of April, 1658, when several Acts were passed; but it does not appear, how long they continued setting. Prior to this order, a commission from his Highness, the Lord Protector, a General Assembly was held at Patuxent, 20th of October, 1654. At this session, 46 Acts were passed. Thomas Hatton and Job Chandler, refused to serve in this Assembly, as being inconsistent with the oath they had taken to Lord Baltimore. Another Act concerning religion, whereby it was declared that none who possessed or exercised the Popish Religion, could be protected in this province. A third Act. Declaration against Lord Baltimore's proclamation, for taking the oath of Fidelity—"These appear to be the only articles that concern the Proprietary government.

Another General Assembly was held at Patuxent, on the 24th of September, 1657, by commission from his highness, &c."

N. B. "All the Acts of these two sessions, under Oliver Cromwell, are recorded in the Land Office. Lib. No. 3, and fol. 420 to fol. 446; and in the Council Book, from fol. 439 to 474."

"An Act for the Burgesses Charges. O. B. S."

N. B. An Assembly met on the 28th of February, 1659, at the house of Mr. Thomas Gerrard, pursuant to writs issued for that purpose, bearing date the 12th of January preceding; and adjourned to the first of March, to the house of Robert Slye, where they continued to set till the 12th instant, when the Burgess sent up the following paper:

"TO THE HONORABLE THE GOVERNOR AND COUNCIL."

"That this Assembly of Burgesses, judging themselves to be a lawful Assembly, without dependance on any other power in the province now in being, is the highest Court of Judicature; and if any objection can be made to the contrary, we desire to hear it.

ROGER ISHAM, *Clerk of the Assembly.*"

"This paper was answered by certain Queries sent down to the lower house, who thereupon demanded a conference, which was granted and held that day. On the 13th, governor Fendall (in pursuance of his before projected scheme) declared his judgment to be, that the Lord Proprietary, by himself or his deputy, ought to be present and have a casting voice: and that as governor, he had not any power to confirm laws made by the Burgesses, for any longer time than until his *Lordship or his heirs*, should declare their dissent. But he did believe the intent of the King, in his Lordship's patent, was, that the freemen by writ assembled, either by themselves or their deputies, should make and enact laws; and those laws so made, were to be published in his Lordship's name, and then to be in full force, provided they be agreeable to reason and in no case repugnant to the laws of England.' In which he was joined by Mr. Gerrard and colonel Utye, his confederates in the Council. In the afternoon of the same day, came the Speaker and lower house, and intimated that they could not allow this house to be an upper house; but that if the governor and council pleased, they might come and take place, in behalf of his Lordship and themselves, as a part of this assembly, sitting by themselves. But being informed, that in such case, the speaker must leave his place to the governor, who then would be president of the assembly, the speaker with the house, took time to consider."

"On the 14th, the lower house demanded a further conference; and being met, the speaker declared that they were content the governor should sit as president, but they would continue their speaker still in the house also, and reserve to themselves, the power of adjourning and dissolving the assembly. And upon debate, the governor being willing to sit with them upon these terms, viz. to leave the power of dissolving the house, to the speaker of the lower house, and reserve to himself, as representing his Lordship, a double or casting voice, as he expressed it. And accordingly (the rest of the upper house refusing) Mr. Fendall, with his two associates, Gerrard and Utye, took their places in the lower house."

"On the upper house being thus dissolved, Mr. Fendall surrendered the remaining powers of government, intrusted to him by his Lord-

ship's commission, into the hands of the delegates; and in order to abolish his Lordship's dominion over the province, accepting and acting as governor, under a commission from them, (Messrs. Gerrard and and Utye, together with the speaker, Mr. Styce, being appointed his council) he gave his assent to several laws; particularly one entitled *An Act for repealing all former Acts*; and another entitled *An Act providing against any disturbance in the present government*: whereby they made it felony for any person to disturb the government, so as they had thought fit to establish it;—and among other acts of supreme power, such as granting commissions, civil and military; mustering and training of forces, &c; did, with the concurrence of his before mentioned councillors, on the 15th of September following, publish a declaration, 'commanding all persons to own no authority but what immediately came from his majesty, or the grand Assembly of this province.' Thereby colourably sheltering (*as the grand jury expressed it*) their rebellion, under a pretence of this sacred Majesty's name, to the great derogation from the just power of his Lordship, and the subversion of the government of this province, and contrary to the peace of his said Lordship, his rule and dominion.

"The honorable Philip Calvert, Esq. being appointed governor, by his Lordship's commission, bearing date the 24th of June, 1660, and sworn in the provincial court, held at Patuxent the 14th of December, 1660, captain Fendall and Mr. Gerrard, surrendered themselves; and being indicted by the grand jury, at the provincial court, on the 22d of February, were tried and found guilty—receiving sentence of banishment and confiscation of their estates, real and personal. But upon their humble petition to the governor and council, the said sentence was mitigated; and they received his Lordship's pardon, on paying each a moderate fine, and being made incapable of bearing any office within this province, or having voice in electing or of being elected Burgess, in any future assembly; and giving sufficient security for their good behaviour towards his Lordship and his government.—Their respective Pardons, under the great seal, are dated the 28th of February, 1660. The rest of their accomplices, (most of which had been, with much art, drawn into a participation of their guilt) upon their timely submission and application to his Lordship, governor and council—receive a full and free pardon, without trial or prosecution.

Together with his Lordship's commission for the government, was sent in his Majesty's letter, bearing date the 3rd of July, in the 12th year of his reign, commanding all magistrates and officers, and all others of his subjects, in these parts, to be aiding and assisting to the re-establishment of his Lordship's just rights and jurisdiction within this province, &c."

I trust the reader will be fully convinced from the foregoing statement, that I have clearly proved Cæcilius Lord Baltimore's enterprize was as I have before stated, a very hazardous one, and that for 27 years, he was kept in a perpetual state of suspense, not knowing from day to day, what might happen; and that through some unforeseen event he might lose all his money, which he had at first expended; as also what it had cost him from time to time to protect the province, and its freemen and inhabitants, from the enemies with which it was infested. It is almost needless for me to repeat, how fully aware the inhabitants were of the great exertions used, and the many anxious moments his Lordship must have spent, whilst the province was in such a state of confusion, the restoration of which was confirmed by Charles the 2nd's re-instatement of the Proprietary government, which continued to go on with much tranquillity in the hands of the Baltimore family, until the English revolution, 1689.

"Acts made at a general Assembly, held at St. John's in St. Mary's county, beginning the 17th day of April, and ending the 1st of May, Anno Domini 1661."

"The Honourable PHILIP CALVERT, Esq. Governor."

CHAP. IV.

"An Act concerning the setting up of a mint within the province of Maryland. Lib. 6, and W. H. fol. 144. Lib. W. H. fol. 152, and Lib. W. H. and L. fol. 23. O. B. S."

"The freemen (1) set forth in the preamble, that the want of money is a great hindrance to the advancement of this colony in trade, &c. *humbly praying his Lordship to take order*, for setting up a mint, for the coining of money within this province. (2) It was enacted that the money coined therein, should be of as good silver as English sterling money. (3) Every shilling so coined to weigh above ninepence in such silver, and other pieces in proportion. (4) Every offence of clipping, scaleing, counterfeiting, washing, or any way diminishing such coin; to be punishable by death, and forfeiture of lands and goods, &c. to the *Lord Proprietary*. (5) *His Lordship* to take and accept the said coin in payment for *his rent, arrears of rents*, and all other engagements, due to his Lordship, &c. according to this Act. See the Act 1662 Ch. 8, whereby this money was to be put in circulation."

"*This Act is confirmed among the perpetual Laws, 1676. Ch. 2.*"

" CHAP. VII.

"An Act for port duties, and masters of ships. Lib. C, and W. H. fol. 147. Lib. W. H. fol. 153, and Lib. W. H. and L. fol. 240."—Passed May the 1st 1661.

"Confirmed among the *perpetual Acts*, 1676, *Ch. 2. An explanatory Act*, 1684, *Ch. 2.*"

"Be it enacted by the Lord Proprietary, with the assent of the upper and lower house of this present Assembly, that all vessels whatsoever not properly belonging to this province, having a deck flush fore and aft, coming in, and trading within this province, shall pay for port duties, or anchorage, half a pound of powder, and three pounds of shot, or so much in value, for every ton of burden, to the *Lord Proprietaries and his heirs.*"

III. And be it further enacted, by the authority aforesaid, that all masters or chief commanders of ships, or other lesser vessels, trading or being in this province, that shall *presume or attempt to punish any inhabitant of this province, either by striking, or tying to the capstern, or by any other way whatsoever, inflicting or attempting to inflict any punishment*, within or upon their said ships, or vessels, on any INHABITANT, as aforesaid, contrary to the peace of the *Lord Proprietary* of this province, shall forfeit and pay four thousand pounds of tobacco: the one half to the Lord Proprietary, and the other half to the party grieved."

You will observe by the before mentioned Act, that attention was paid to all ranks of people, rich and poor, equally alike, by the Proprietary, and his government.

"Acts made at a general Assembly, began and held at St. Mary's, in the province of Maryland, the 13th of April, and ended 8th May, Anno Domini, 1669."

"The Honourable CHARLES CALVERT, Esq. Governor.

CHAP. I.

"An Act for the continuation of peace with, and protection of our neighbours and confederates, Indians on Choptank river. Lib. C, and W. H. fol. 162. Lib. W. H. fol. 126, and Lib. W. H. and L. fol. 34.—Passed May the 8th, 1669.

"N. B. This Act on account of the fidelity of the Choptank Indians, and delivering up some murderers, &c. settles upon them and their heirs forever, all that land on the south side of Choptank river, bounded westerly by the freehold, now in possession of William Dorington; and easterly with secretary Sewall's creek, for the breadth,

and for length three miles in the woods, to be held of his Lordship, under the yearly rent of six Beaver skins, and is confirmed among the perpetual laws by 1676, Ch. 2. By the Act of 1721. Ch. 12; Commissioners were appointed for ascertaining the bounds of these lands; and the same lands were confirmed to them by the Act of 1723, Ch. 18."

Having recited some of the laws, that appear to me most necessary, to elucidate the subject on which I am writing up to the decease of Cæcilius Lord Baltimore: and which were confirmed among the perpetual Laws of the Assembly, 1776, by Charles the 4th Lord Baltimore, who acted in person: this being the first Assembly that set after his Lordship became proprietor on the death of his father. I shall now proceed to enumerate some few out of the various grants made by their Lordships with the appointment of offices, &c. &c. up to the revolution, 1775.

"Special warrant to James Lindsey and Richard Willan for a grant of the manor of Snow Hill,; supposed to be escheat to his Lordship; the same grant to be made as the Proprietary declares in consideration of the services rendered by those persons on the occasion of Ingle's insurrection, which reason he directs to be inserted in the grant, with notice, of their singular and approved worth, courage, and fidelity to the end and memory of their merit and of his (the Proprietary's) sense thereof may remain upon record to the honor of them and their posterity for ever." Lib. 5. fol. 410.

A similar one on the same ground to John Jarbo, and William Evans of a plantation in the Isle of Kent, forfeited by the rebellion of the former owner, is followed by like warrants for large manors, to Eltonhead, brooke, &c. upon conditions of future transportations. Lib. 3, fol. 412.

"Instructions given by the Right Hon. Cæcelius Lord Baltimore Lord Proprietary of Maryland and* Avalon, &c. to his Lordship's son

* There are some very curious remarks made in Mr John Kilty's landholder's assistant, as to Mr. Harford not taking the title of proprietor of Avalon, or of his not availing himself of any of the excepting clauses or conditions of the Act of October session, 1790

As to his taking the title of proprietor of Avalon, he could have no pretensions to it whatsoever, and I conceive the best answer that can be given of his not availing himself of the excepting clauses of 1780, is that it was not in his power, as he would noways come within the provisions of the Act, which his council must have been aware of at the time, could any advantage have been

and heir, the Honourable Charles Calvert, Esq. his Lordship's Lieutenant of the said province of Maryland."

"His Lordship doth hereby authorise and require his said Lieutenant, that as conveniently as he may after the arrival in the said province of Jerome White, his Lordship's surveyor General of Maryland, that he take order, that two or three hundred acres of land as near to his own seat at St. John's as he can be assigned to the said Jerome White, and his heirs, in the most convenient place for planting a vineyard there *under the usual yearly rent of two shillings sterling for every hundred acres*, except West St. Mary's and St. John's, &c. 16th of September 1662." "Lib. No. 5. fol. 421."

"Instructions given by the Right Hon. Cæcilius absolute Lord and Proprietary of the provinces of Maryland, and Avalon, Lord Baron of Baltimore, &c. to his trusty and well beloved Baker Brooke of Maryland, Esq. his Lordship's surveyor general of the said province of Maryland, for the better execution of the surveyor general's place there."

6th Item. "That the surveyor general take care that according to his Lordship's former instructions divers manors in the most convenient places of the said province, that is to say two manors at least in each county of the said province from time to time as occasion shall require, be laid out for the *particular use of his Lordship and his heirs*; and erected into manors, every one of which manors are to contain six thousand acres of land, a piece at least, and the one sixth thereof lying altogether in some one convenient place of every such manor respectively, is to be reserved for his Lordship's demesne, and the rest to be disposed of as his Lordship, or his son and heir Charles Calvert, Esq. shall from time to time appoint. Given under his Lordship's hand, and lesser seal at arms the first day of August, in the fortieth year of his Lordship's Dominion over Maryland, in the year of our Lord God, 1671. Council Book c, B fol. 89."

Various instructions were given by his Lordship antecedent to the before mentioned time, as was also by himself and his heirs in the succeeding time up to the year 1771. Manors were set out for their Lord-

taken of any of the provisos in the various Acts which passed at that time; or up to his arrival in the country. I am well convinced they would have been resorted to as his case could not be in more able hands than it was, (Samuel Chase, Esq.) I also observe Mr. Harford is in many instances called the heir of Frederick Lord Baltimore, that cannot be, devisee, I should conceive would be a more proper appellation.

ships. and the bounds taken, when they were agreeable to their Lordships order, entered in the Secretary's office with as much convenient speed as possible. The Lieutenant Governor was ordered to give such manors, what names he thought proper to have their boundary's properly set out, and to take care they were regularly recorded in the land office. Cœcilius made several grants of manors to his son Charles, which contained the same reservation of quit rent, as they would have done; had the grants been made to any other persons: I shall now proceed with their Lordship's instructions.

"May the first M. D. C L. and V." (1665.)

"* Then came Jerome White, Esq. Surveyor general of this province, and requesteth that the manors reserved for his Lordship hereafter mentioned, may be entered on record as followeth." Viz :

"In the county of St. Mary's, reserved the Beaver dams & Choptico."

"In the county of Charles, Pangaio and Sackaio towns, for six thousand acres in each manor, of the best land about the said towns."

"In Calvert county, the manor of Patuxent."

"In Ann Arundel county, the Ridge, another manor to be reserved, lying on the north side of Severn river, above a place called the Eagle's Nest."

"In Talbot county, one manor at the head of the South East branch of Chester river, with another lying between the branches of Choptank and St. Michael's, and head the of Treadavon creek."

"No land to be surveyed in Nanticoke river after the last day of April, 1665 ; but the whole river to be reserved till further order."

"To reserve a place lying on the sea-board side of the Eastern Shore, (for his Lordship's use) being formerly called Chingotecke, now by the name of Mount Scarborough, by which place no land to be surveyed on each side, for ten miles by the water."

"Lib. No. 7. folio 558."

"(16th of April, 1670)—Ordered by the Surveyor general, that none of his deputies lay out lands upon Munderkill creek, in Delaware Bay, until two manors of 6000 acres each, be first laid out for the Lord Proprietary ; and that if any of them, should through ignorance of the said order, return certificates of surveys made there, the clerk of the office forbear to enter the same on record, till further order."

"Lib. No. 12. folio 476."

"Notice from the Surveyor general, that all the lands, whose water falls into any swamp, branch or run of Patuxent river, on the Eastern

* John Kilty's Landholder's assistant—page 87.

side thereof, being ten miles above Robert Tyler's, and all the lands, whose waters fall into any part of the South West branch of Patapsco river, above the falls thereof, are reserved for his Lordship's use, and no survey to be made thereon without a particular order from the Governor. July 26th 1673. Lib. No 15, folio 202."

"Jesse Wharton and Henry Adams appointed by the Governor to summons and examine such persons as well Indians as English, as may be able to give testimony concerning ancient reputed bounds of the Indian lands Pangaya and Zachaia, which had been surveyed and erected into manors for the Proprietary, and by which surveys, divers persons pretend themselves to be much injured, &c. Lib. No. 17, folio 572."

"Order of the Proprietary (then in Maryland) for a patent to Ephraim George Harman of a manor on the Delaware called Augustine manor, in the bounds of which are described in the said order to be held by the yearly rent of eight pounds sterling, for the whole tract; let it contain what number or quantity of acres soever." Lib. W. C. No. 4.

"In behalf of his Lordship, Lord Proprietary of this province, you are hereby required to reserve for his Lordship's use, the quantity of fifteen thousand acres of land if the same can be found together in one entire tract, otherwise no less than ten thousand acres, adjoining to a tract of twenty thousand acres, lately surveyed for CHARLES CARROLL, Esq. in Prince George's county, the same to be laid between such metes and bounds as may be most profitable to his Lordship; and return your certificate of survey thereof into his Lordship's land office, with all convenient speed, thence to be transmitted to the examiner general for due examination, and for your so doing this shall be your warrant. Given under his Lordship's lesser seal at arms this eighth day of May, 1718. To his Lordship's surveyor General, Prince Georges county, there." Lib. B. B. folio 81.

By these different orders, grants and appointments I mean to show that the descendants for the most part of the persons who received grants, or held offices under the Proprietary, are at this time the principal people in the state: my reason for making this remark is on account of its having been stated by some of the Assembly that the present proprietors of land are a new race of people come in since the Revolution: this I can easily confute was it necessary. There are many who held situations under the Proprietary government who were afterwards through the money they made enabled to buy land: this has been acknowledged to me by many gentlemen, though a des-

cription of such persons, it would be too tedious to detail, nor is it at all necessary ; the fact is incontrovertible. If the descendants of such persons as these are not inclined to render my mother, (the honourable Louisa Browning, the legitimate Daughter of Charles the 6th. Lord Baltimore) assistance in procuring an equivalent remuneration, I trust my having recourse to the law of the land to try to procure that justice which I cannot otherwise obtain, will not be considered but as it ought, and that the state alone is the cause of compelling me to resort to such a measure, and that whatever expense or trouble individuals may be put to, they have only to blame those who were predetermined not to go into the merits of the case. I shall enumerate some few more of the grants or orders made by my ancestors, before I begin to state the various sources of property, and income of which the Baltimore family was possessed of in Maryland, at the time of the revolution, and of which the honourable Louisa Browning has been deprived of contrary to the laws of the Union, and the state of Maryland. It being my anxious wish and particular care and attention that no remark made by me should have the least tendency to any personality, and as the names will nearly all have been published before, I presume no offence can be taken at what I have selected.

“October 21st, 1727, “His Lordship being resolved to re-survey his manors in Somerset county, lying on Nanticocke river, and on the head of Wicomico river. Reserve is therefore hereby made on all the contiguous vacant land to the said manors, of which you are to take due notice so as you are not to execute any warrant whatsoever that may any ways affect such manors, or any of the lands heretofore reputed to be the same.—To the Surveyor general of the Eastern Shore, or his deputy of Somerset county.” Lib D. D. folio 227.

“*By the Governor and Council, June 16th, 1730.*

“For as much as it is represented to this Board that several persons have attempted to procure warrants, &c. to take up lands heretofore supposed to be manor lands, and likewise lands already leased or otherwise reserved for his Lordship's use.

“It is the opinion of this Board that such lands ought not to be taken up by any person whatsoever, but be and remain to his Lordship as land reserved for his own use, although not contained within the bounds of any of his Lordships manors.

“It is therefore ordered, that no person or persons be permitted to survey or take up any such lands ; and that a clause be invested in all

warrants issuing out of the land office for the future restraining the surveyors from laying any such land for any person whatsoever."

"And it is likewise ordered that no warrants be located upon lands reserved or appropriated to the use of the Indians."

JOHN ROSS, Clerk Council.

"Sir,—You are hereby required to enter the above order in the records of the land office for the better information of all persons concerned therein."

Signed per Order,

JOHN ROSS, Clerk Council.

To the Honourable *Philemon Lloyd*, Esq.

Sir,—Whereas his Lordship, the Right Honourable, the Lord Proprietary of the province of Maryland hath ordered to make a re-survey upon all his Honours, manors and lands, and to enlarge the same on both shores of this province.

"I do hereby in the name and behalf of the Right Honourable Lord Proprietary, order and require that you forthwith cause a reserve to be entered for his Lordship on vacant lands, rough or cultivated, and on all lands that are or may become escheat or forfeit to his Lordship adjoining to any of his said Honours, manors, or lands, or within the distance of three miles from them, or any of them."

"And that you likewise acquaint the several surveyors within this province thereof, that they may behave themselves. Given under my hand this 28th day of June, Anno Domini, 1731."

To *Philemon Lloyd*, Esq. BEN,DT LEONARD CALVERT,
Deputy Sec'ry. of Maryland, this.

"In pursuance of the above order a reserve is hereby made for and to the use of his said Lordship on all vacant lands rough or cultivated, and on all lands that are or may become escheatable, or any ways forfeit to his Lordship, adjoining to any of his Honours, manors, or lands, or within the distance of three miles from them, or any of them."

"To all concerned."

Lib. E. E. fol. 64.

Mr. LAWSON,

"Enter a reserve for his Lordship of all the lands contained within the bounds of his Lordships manor on the North side of Severn river, in A. A. county which are not already affected by the location of any warrants, and by any patent now in force. April 23th, 1733."

EDM. JENNINGS.

April 28th, 1733, "Pursuant to the above order, from the Honourable Edmund Jennings, Esq. Secretary of this province of Maryland,

and chief judge of his Lordship's land offices, a reserve is hereby made, &c. as before."

Lib. E. E. fol. 301.

Orders by Daniel Dulany, Esq. chief agent, &c. for reserve of particular tracts escheated to the proprietary.

Lib. E. E. fol. 371. 392.

"Order from the same for reserve of all Cypress Swamp in Somerset county not taken up, and half a mile round it." July, 4th 1734.

Lib. No. E. E. fol. 432.

"Ordered from the same for reserve of five hundred acres, part of Portland manor, provided that Skipwith Cole who is acknowledged to have right of preemption as being the discoverer that the said land is escheat does not purchase it to his own use: the land not to be surveyed for any person except the said Skipwith Cole, without special directions from the Chancellor and Secretary, they being first apprised of this reserve."

Lib. E. E. fol. 470

A grant to our Councillor *Giles Brent* of a thousand acres of land lying nearest together about Kent Fort in the isle of Kent, bounding upon Chesapeak Bay, which said piece or parcel of land shall from henceforth be one entire manor, and to be called by the name of the manor of Kent Fort." Given under our hand and seal of the said province at our honour of St. Mary's the seventh day of September, Anno Domini. 1640

Lib. No. 1. fol. 48.

C. BALTIMORE.

Commission for the appointment of our trusty and well beloved Councillor, Colonel Henry Darnell: our trusty and well beloved Councillor, Colonel William Digges: our trusty, and well beloved Councillor, Major Nicholas Sewall: and our trusty, and well beloved Councillor, John Darnall, Esq. to be our especial and select council. This commission to continue for and during our pleasure: witness ourselves at Matapony Sewall, this fifth day of May, in the ninth year of our dominion, &c. Annoque Domini. 1684. Lib. R. R. R. fol. 93.

"C. BALTIMORE."

"Instructions, power, and authorities given by the Right Honourable Charles Lord Baltimore, Lord Proprietary of this province, &c. to the Honourable Colonel Henry Darnell, Colonel William Digges, Major Nicholas Sewall, John Darnall, Esq. Councillors, particularly and especially appointed and assigned for the hearing and determining all matters and things for and concerning lands.

2. Any error or mistake in the Clerk of the office, or surveyor in return of certificates, entering upon record, or variance between the original record, or certificate and patent; you may (upon due proof

or other undeniable circumstances made appear) by your order to the justices of our provincial court, in court sitting, cause to be corrected, rectified and amended, in the certificates, patents, records, and originals afore said as the case shall require.

3. To any person or persons having two, three, or more tracts of land contiguous or adjoining one to the other, you may (upon suite made) grant special warrant to re-survey, and lay out the same into one entire tract with liberty of taking in or adding thereunto what waste land shall be found contiguous, and grant patent for the same, upon such conditions and terms as to you shall seem meete and reasonable: the person suing for the same, surrendering up the several former grants thereof to our Chancellor or Chancellors for the time being to be vacated upon record.

6. Rents for land not paid in several years, (especially where orphans are concerned) or otherwise upon sufficient motives, thereto inducing, you may have hereby power and authority given you to except of, in ready money, if tendered, bills of exchange, or otherwise, as you seem meete.

8. Patents of exemplification may at request be granted to any person or persons suing for the same, where the originals by fire or other accident have been destroyed, or lost.

9. Always upon supplication to you made, admit of caveat in behalf of *orphans* to be entered against the re-survey of land to them belonging to be made by any other person for discovery of the surplusage; which we will in all cases to be afforded to the *orphans* before any other, upon such conditions and terms as you shall think fit, and reasonable.

13. Any person or persons taking up upon conditions of plantation performed upon special or conditional warrant from us or our Council duly obtained, any tract or quantity of land falling within the former survey, or reserve for us made, may on supplication have warrant granted him or them to make good the like quantity upon other waste land in any part of the province.

14. Conditions of plantation performed, and by the carelessness, negligence, or ignorance of the clerk of the office omitted to be duly entered upon record, may (upon due proof made, and other undeniable testimony to you appearing) be ratified, confirmed, approved, and made good by your order to the benefit of the party concerned.

15. No advantage shall be taken by lapse of time in suing forth patents for land upon conditions of plantation in all respects otherwise performed, where it shall appear that the same has happened by default of the clerks of the office, negligence of the surveyor, or ignorance of the party concerned, and in reasonable time taken notice of, sought to be redressed: And in case the same shall happen (through

the defects aforesaid) to be omitted during the life of the party aforesaid. You may then on suit made, cause the speedy entry thereof, and grant patent for the same to the next heir, or relation of the deceased ; or for want thereof to the executor or administrator of such deceased, to be as assets for the satisfaction of his debts or legacies, or otherwise as you shall see fit, upon such conditions and terms, as to you shall seem meet: our rents and arrearages of rent for the same, being duly paid and satisfied.

Given at Mattapony Sewall, under the great seal of our said province of Maryland, the fifth day of May, in the ninth year of our Dominion, &c. Annoque Domini, one thousand six hundred and eighty four.

Lib. R. R. R. fol. 93. Lib. No. 19, page 459. Lord Proprietary's proclamation declaring no lapse of time shall prevent any one proving their rights for patents or grants of lands heretofore made, 3d of June, 1676.

I think it must be allowed that every indulgence was granted to persons taking up lands, as well as protection shewn to orphans and others ; and that no advantage was sought to be taken either of the persons themselves, or the inattention of any person employed by the Lord Proprietary, or his agents. There is another proclamation by the Lieutenant General to the same effect as the above, dated the 19th of June, 1678. Lib. R. R. fol. 164.

A petition of William Stevens of Somerset county, praying that certain persons in the said county might have further time allowed them to take up a tract of land for which they hold certificates, but the time having expired on account of troubles in those parts with the Indians, they were prevented from attending to the same, as well as their crops. Time granted under the hand and seal of the Right Honourable Charles Lord Baltimore, 14th of June, 1678.

To the Hon. *William Calvert*,

THOMAS NOTTY.

Principal Secretary of the

Province of Maryland.

Lib: No. 19. fol. 606.

[L. S.]

C. BALTIMORE.

Instructions, power and authority to be observed and pursued by Charles Carroll, my agent, and receiver general in Maryland, given by me this the 12th day of September, 1712.

You are also hereby ordered and empowered yearly to pay in tobacco, the several allowances heretofore made by me, to the several persons and officers herein after mentioned, viz.

Major Nicholas Sewell,	12,000	pounds of Tobacco			
do do	3,000	do do	as an addition.		
Henry Sewell, - -	3,000	do do	for assistance to his father		
			in shipping at Patuxent.		
To my officer at Patuxent,	6,000	do do			
do Potomack, -	6,000	do do			
do Annapolis, -	3,000	do do			
do Oxford, -	3,000	do do			
Mr. Anthony Neale, -	3,000	do do	a gift or token of respect.		
Mr. Robert Brooke, -	8,000	do do	for him and his brethren,		
			being 8 in number.		
Mr. James Haddock,	1,000	do do			
Mr. George Mason, -	1,000	do do			
To yourself, - - -	12,000	do do	for your advice and trou-		
			ble about my law concerns.		
Mr. Cæcil Butler, -	4,000	do do			
Mr. James Carroll, -	10,000	do do	for keeping my rent rolls		
			in order.		

I hereby grant a hundred acres of land to William Richardson, in Anne Arundel county, in lieu of a certificate of a former grant, which his father alledges to have received of Heathcott, but which never appeared. I also empower you, the same as I empowered my late agent, Col. Henry Darnell, upon the *Crown* Secretary, and Chancellors, taking for their own use, the fees properly belonging to my land office, order and direct that an addition should be made to the price of warrants so as to make up for the difference taken by the said Secretary and Chancellor, and to take and receive to, and for his and your own proper use and behoof.

You are to grant Cecil Butler a warrant for 500 acres of land; you are also to grant him a lease for the plantation of St. Johns near the city of St. Mary's.

You are to grant Henry Wharton, 146 acres of land.

You are to grant Henry Sewell, 2 or 300 acres of escheat land.

You are to grant Gerard Styne, 500 acres of escheat land, in consequence of a piece of 500 sold by Charles Calvert, to his father, which was in *my manor*, but for which I have given Capt. Richard Smith a compensation. I do hereby also confirm a grant passed by Col. Henry Darnell, to *yourself*, of two hundred acres of land near the city of St. Marys. [L. S.]

Mary Tilghman, widow, and Richard Tilghman, her son, aged eleven years, by their petition set forth that the said Richard is possessed

by grants, (to his ancestors,) of several tracts of land, which, by reason of his non age, he is not in capacity to have surveyed in order to discover if there be any surplusage within his bounds, and that some persons have endeavoured to take up land within the same without any special grant or order from his Lordship; they therefore that in consideration of the said Richard's infancy, his Lordship would be pleased to stop the issuing of any warrants to effect the said lands, whereupon.

"Ordered that *no advantage be taken against the petitions* by reason of any survey made within the bounds of their said lands, but that for the future a stop be put to the granting of any special warrants for the re-survey *thereof* until the *orphan* shall come of age, and desire the same, or any other person for and on his behalf shall do it."*

Lib. C. B. No. 1. fol. 19.

The Honourable Clement Hill, one of the executors of Richard Gardener, late of St. Marys, county, dec'd moved the board, that where-as upon a petition, of the said Gardener, the 8th of March, 1686, to this board, for a warrant re-survey for Barbitan manor: The same was granted.

Robert Gouldsborough and Elizabeth his wife petitioned for a re-survey of land, that they might have land allowed them instead of the creeks which took up a large part of their grant. Allowed 5th May, 1684.

When the land that Sir John Oldcastle formerly held, shall be adjudged mine; I order Col. *William Digges* may have a patent for the same *as a gift of*

C. BALTIMORE.

"To the Secretary for the time being."

Lib. C. B. lands. Fol. 154, &c.

Thomas Bordley, Esq. of the Eastern Shore, was appointed surveyor general; 20th of February, 1716.

ANNAPOLIS, 2d July, 1739.

By virtue of an instruction from the Right Honourable, the Lord Proprietary, bearing date the 10th day of December, in the year of our Lord, 1738, to reserve for his Lordship all vacant and escheat land, being in *Annapolis*, or within the distance of *five miles thereof*, or of any part thereof; I hereby desire that entry be made of this reserve, and the greatest care taken to prevent any survey being made

* This is very different to what a gentleman of the same name said to me, when talking of my mother's claim; he said, we always take advantage of the law to answer our own purpose.

within the same, either by expressly mentioning the reserve in all warrants to be issued out of the office, or in such other manner as may make the same known and remove all pretence of ignorance,

I am Sir,

Your most Obedient Servant,

* BENJAMIN TASKER.

To Col. Gale, Judge of the Land office.

Lib. L. G. No. fol. 64.

July 2nd, 1739.

"Pursuant to the above order a *reserve* is hereby made on all vacant and *escheat land*, being in *Annapolis*, or within the distance of *five miles thereof*, for the use of the Right Hon. the Lord *Proprietary*, of which the surveyor of Anne Arundel county is to take notice, and demean himself accordingly

Lib. L, G. No. A. fol. 64.

LEVIN GALE."

Charles Lord Baltimore's instructions to Philemon Lloyd, Esq. deputy Secretary of our province of Maryland, dated London, March 19th, 1722.

Grant to *Richard Tylghman of seventeen hundred acres* of land, called Adventure, in Talbot county.

Lib. C. C. 148.

Charles Lord Baltimore's instructions to Philemon Lloyd, Esq: our deputy Secretary of our province of Maryland.

London the 21st of November. 1724.

1. You are hereby ordered and directed to grant unto *James Carroll five thousand eight hundred acres* of common warrant land, and to make out his patent for the same, under the *annual quit rents*, and other conditions; *but he is to pay me no fine*, it being a reward bestowed on him, in addition† to *four thousand two hundred acres*, formerly given him, for his labour and pains in making out my rent rolls, with which you are to acquaint my agent, Nicholas Lowe, Esq. that he may require nothing from him for the same.

2. Whereas you have located for me a *new manor upon Patomack*, containing *ten thousand acres*, I am well pleased therewith, and

* Presumed to be the first instructions received by Tasker as agent.

† It is to be observed James Carroll had ten thousand weight of tobacco per annum, for this business regularly allowed.

would have you do every thing necessary to compleat the same, and being willing in some measure to reward *your services*, in conjunction with these of my secretary, Mr. Charles Lowe, I have thought fit to grant *your request*: and do hereby order, direct, and impower you to make out a *grant and patent yourself*, and the said *Charles Lowe* of the *ten thousand acres of land* you have laid out *between you* upon Patomack, under the usual *quit rent*, and other *conditions*, without paying *any fine for the same*, with which you are to acquaint my agent, *Nicholas Lowe*, that he may require *nothing for the same*.

“ 3. Major Sewell having desired of me a grant for a certain parcel of land containing about *four hundred acres*, heretofore taken in partnership with Mr. H. Sewell (the Major's father) with one Vanhoof, (an alien) who is since dead, without any body claiming for or under him, I am willing to grant his request, which you are hereby ordered, directed and impowered, to make good to him in the most effectual manner as far as I have any right therein, without *his paying any thing as a fine to me* for the same, with which you are likewise to acquaint my agent Mr. Nicholas Lowe, that he may require nothing of him.”

Lib. C. C. 420.

C. B.

“ Whereas I have received his Lordship's instructions bearing date at London, the 26th of May, Anno Domini, 1735, directing that Mr. *John Digges* of Prince Georges county, should have a warrant for *five thousand acres* of land, to be laid out upon the remote parts and borders of this province, upon his giving security for the payment of the caution money, within the term of *five years*, and complying with other requisites, mentioned in the said instruction, and whereas I have received a bond from the said John Digges, and Arnold Livers of Prince Georges county aforesaid; security conditioned for the payment of *one hundred pounds* sterling, within the term of *five years*, being the consideration money at the date of the said instructions, taken for the quantity of *five thousand acres of land*: warrant may therefore issue unto him, the said John Digges for the aforesaid quantity of *five thousand acres*, with his excellency's approbation.

July 30th, 1740.

Approved, SAMUEL OGLE.

To the chief clerk of the land office

BENJ. TASKER.

Lib. L. C. No. A. fol. 187.

John Lewellin.

January 24th, 1680.

“ I hereby order and impower you to alter the rent of Mr. Richard Marsham's patent for three hundred acres, called Black Walnut

Thicket, from double to single rent, and for your Soe doing this shall be your sufficient warrant, Given at Mattapony the day and year above mentioned."

"To Mr. John Lewellen"

C. BALTIMORE.

"Lib. W. C. No. 2. fol. 193."

"Petition of Honora Furness, widow of William Furness of Somerset county, deceased, in behalf of the heir of the said William. The deceased had died possessed of a tract of land; but through ignorance of conditions of plantation had thought his title sufficient by laying out and duly returning certificate of the said land, had neglected to obtain a patent. The petitioner prays a warrant to re-survey with liberty to add about two hundred acres of marsh land, to prevent evil minded persons from encroaching thereon to the prejudice of the said heirs: *ordered accordingly.*

"Re-survey for the purpose of leaving out poor land.

"John Bradford of Prince George's County, in behalf of Thomas Butler, an orphan, under his guardianship, sets forth—That the said Butler is seized in fee, of two tracts of land, the one called Harmitage originally granted to William Joseph, Esq. and the other called Joseph's Parke, granted to William Joseph, Jun. containing together *eight thousand one hundred and six acres*; that he, the petitioner, on inspection into the bounds of those tracts, finds that a considerable part of both of them is very mean, barren and unprofitable; wherefore he prays a special warrant to resurvey them, with power to exclude and leave out such part of them as is useless, mean and barren, and to add a like quantity of good tillable land thereunto adjacent; and that if a sufficient should not there be found to supply the place of such *barrens*, a warrant may be issued in the name of the said Butler, to be executed and aiding such place as the petitioner shall think fit."

"Warrant of resurvey granted (dated August 19th, 1714) with directions to the Surveyor to frame such courses as the said Bradford shall direct, in order to exclude bad, and include good and beneficial land."

"Lib. A. A. fol. 333."

"Sarah Pile, widow, and Joseph Pile, son of John Pile, deceased, by their petition set forth—That the said John Pile had a warrant granted to him on the 19th of October, 1653, for one thousand acres of land as the *gift* of the *Proprietary*, in consideration of services rendered and *losses* sustained by *him* in the *troubles* of the *Province*; that he had in consequence of a survey made at the head of *Wiccomoco river*,

but that it being represented that the said survey was within his Lordship's reserve of Calverton, there was some doubt about the propriety of issuing patent for it, and his Lordship upon application of the said John Pile ordered, on the 4th of September, 1657, that he should have three or four hundred acres at that place where he had built and seated, the remainder in any part of the province.—That upon the said Piles' further petition respecting the said remainder being six hundred acres, his Lordship was pleased to order that they should be *laid out adjoining the four hundred* which he had been permitted to retain of the original survey, and erected into a manor agreeable to the original design,—*That this was done accordingly, and a patent passed as for a manor* by the name of Sarum, being the land on which the petitioners reside."

"That the Petitioners are informed that by reason there is a great quantity of marsh between the water and the said land, (which marsh was not wont to be taken up in those days) *there is more than a thousand acres contained within the bounds*, and also, that there is to the said land a greater breadth allowed upon the water than was allowed by his Lordship's then condition of plantation which might (if severely looked into) create great trouble to the petitioners; the present possessors of the land, and cause the said grant to be vacated upon record, and render the *Proprietary's noble gift* to the aforesaid John Pile of no value."

They therefore pray that the said land may be granted to the petitioner, Joseph Pile with reservation of one third thereof to the petitioner, Sarah Pile during life, that all former grants touching on or concerning the same, may be vacated upon record, and the new grant passed, to the said Joseph Pile, as his (then) *present Lordship's bountiful gift*, without mention of any conditions of the plantation whatsoever, and that for ascertaining the true contents thereof, a warrant of re-survey may issue, directed to such person as his Lordship shall please to appoint, &c.

"In answer to which *his Lordship* declared that he would not take advantage of the errors committed in the former survey, so as wholly to vacate the patent, *but would allow the petitioners their quantity of one thousand acres*, therefore ordered warrant to issue to lay out the *said quantity*; beginning where the first survey began; giving its due breadth from thence by the water side, according to the conditions in force at the time of the original survey, *with liberty of including what marsh land may lie contiguous*: and that Capt. Randolph Brandt of Charles county, be for the purpose specially appointed to lay out the

same, and the warrant to be to him directed after being first viewed and signed by his Lordship; and that on return of a certificate, patent of confirmation issued as prayed."

"Council Book. C. B. for lands. fol. 74.

The like to William Thomas, Thomas Atchison, and others that upon inspection into their title they find no grant to have been ever issued for the same land.

Lib. E. E. fol.

The warrant after directing a re-survey, and the return of a certificate in the usual form, instructs the surveyor to return also, "*separate certificates*," if required of each person's parts thereof according to their rights, by their deeds of bargain, or sale, or bequest, with how much surplusage and vacancy, in order that each may have separate grants, &c.

The petition of John Earle of Talbot county sets forth, that he married the daughter and sole heiress of John Burgess of the said county, who dying, left to his said daughter a certain parcel of land, which by her death afterwards without issue, the petitioner supposes to be escheat, he therefore craves a mandamus, and preemption of the said land. Mandamus ordered accordingly and the petitioner on condemnation to have "the refusal" of the said land, "upon such reasonable terms as the board shall seem meet."

Lib. C. B. No. 1. fol. 144. (Anno Domini, 1684)

"BALTIMORE.

[L. S.) Orders and instructions to our trusty and well beloved Edmond Jennings, Esq. Secretary and Judge of our land office in the province of Maryland.

10. Whereas we have condescended that those persons who are entitled to any lands within our manor of Severn, on the North side of Severn river, in Anne Arundel county, by former survey or patent, should have original patents, or patents of confirmation for the same: therefore our will and pleasure is, that proper patents issue to such persons as shall apply for the same, within the space of one year next ensuing, under the same annual rent for every hundred acres, which was payable for lands, at the time of the original survey of such lands; provided that no patent be granted by virtue of this instruction, shall contain or include more land than the express number of acres mentioned in the original survey or patent; and which said number of acres shall be included within bounds to be ascertained by a re-

survey, if necessary, of such lands, prior to the patent hereby directed to be granted.

Given under our hand and seal at Annapolis, this fourteenth day of June, in the nineteenth year of our Dominion.

Anno Domini, 1733.

By his Lordship's command,

WILLIAM JANSSEN.

Lib. E. E. fol. 306.

Charles the 4th Lord Baltimore resided in Maryland near thirty years, great part of the time as Governor, during the life of his father. (Cæcilius Lord Baltimore,) the family being Catholicks, Charles Lord Baltimore was from the beginning of the reign of William and Mary, 1689, deprived of his Proprietaryship: 1692, they sent over a Governor, (Lionel Copley, Esq.) and afterwards several others in succession were sent over by the different Kings and Queens of England. A governor and council were appointed by the Kings, and all subordinate officers, even those concerned in the affairs of land, were commissioned by the same authority: the adherents of the proprietary were ousted, and made by means of a religious test, which they could not honestly take, incapable of holding employments in the new administration. There was much controversy during the reign of William and Mary, concerning the land office; and some absolute suspension of the business, was the consequence throughout the successive reigns of William and Mary, King William, (alone) and Queen Anne. Charles Lord Baltimore having gone to England in 1684, never returned; he however continued a Catholic to Maryland, and died at Epsom, in the county of Surrey, the 20th February, 1714, leaving his son Benedict Leonard Calvert, afterwards Lord Baltimore, who had been under the necessity of publicly renouncing the Catholick religion, (or he would have lost his estate in Maryland,) was on the 3d of January, 1713, admitted into the Protestant Church by the Bishop of Hereford; however, having only survived his father a few months, he had scarcely time to notify his succession to Mr. C. Carroll, the then agent to the Proprietary before he died, when he was succeeded by his son Charles the 6th Lord Baltimore a minor, and under the guardianship of Lord Guildford, who joined his name to that of Proprietary in all public acts.

It is to be observed that although Charles the 4th Lord Baltimore was deprived of the Proprietaryship, and the appointment of several officers, he yet retained all income or emolument arising from the province, the same as heretofore,

"At an Assembly, held at the city of St. Marys, on the 10th of May, Anno Domini, 1692, and in the 4th year of the reign of our Sovereign Lord and Lady, William and Mary, by the grace of God, of England, and Scotland, France, and Ireland, King and Queen, &c. and ended the 9th day of June following. These Acts following were made."

"LIONEL COPLEY, Esq. Governor."

"An Act for the fourteen pence tonage, Lib. L. L. fol. 60. and Lib. W. H. and L. fol. 67. Dissent."

N. B. "This Act (1) recites the Act of 1661, Ch. 7, "before stated," for port duties, and masters of ships, and sets forth, that "the said Act being altogether silent for what use the said imposition hath been ever since levied and raised, whereby the true intent of the said law hath been hitherto unknown, to the great dissatisfaction of the good people of this province; no other apparent reason or cause for the same, being than only the advancement of his Lordship's interest, who hath eversince converted the same to his own use. This present general Assembly, having taken the premises into consideration, and being fully satisfied that the reasons and causes for giving the said subsidy was for the better securing the several ports and harbours within this province. by erecting of forts, and finding sufficient ammunition for maintaining the same, which his Lordship hath in no wise complied with. And for as much as this present general Assembly conceives his Lordship was incapacitated of performing what (upon making the said Act) was meant and intended to have been performed, &c. prays that it may be enacted, &c." and then enacts, (2) that fourteen pence sterling per ton, &c. be paid to their Majesties, &c. for the support of government. (3) That thirty pounds sterling per annum be paid thereout to each member of the council, having no place of profit, in satisfaction of their loss and time, attending the council upon all occasions: the said councillors defraying their own expences, without any charge to the public whatsoever. (4) The remainder of the said subsidy to go to the supply of the province with sufficient provision of arms and ammunition, &c."

"The Reasons for passing this Act appear more amply from the following extract, from the opinion of the House of Delegates, with which the council concurred: Upon the petition of Henry Darnell, Esq. his Lordship's agent and receiver general, for liberty peaceably and quietly to receive and collect all his Lordship's dues and revenues in this province, &c. Which opinion was sent up to the council board on the 25th May, 1692."

"As to the fourteen pence per ton, this House have fully searched and examined into the true cause of making this Act, (viz: 1661 Ch. 7,) and though the journal of that Assembly, as well as the original law, is either by negligence lost, or designedly made away by the late Government; yet many persons living, and some of this Assembly, do remember, and say that the same was for building of Forts, and finding of powder and shot for the country's use. And further that that Duty ever was and still by the inhabitants called Fort duties, and not Port duties, as it is now termed in the said Act; upon which evidence and perusal of the law, and fully debating the same, This House do unanimously declare that the said fourteen pence per ton doth of right, and according to the intentions of the makers of that law, belong to the crown. And humbly desire their Majesty's Royal assent to an Act to invest the same in their Majesties and successors for ever. It seeming very unequal to them that the crown of England should be at the charge of building Forts, which is absolutely necessary for securing ships in the time of war, and securing their Majesty's duties in times of peace and war; and the Lord Baltimore receive the money given by his Majesty's subjects for that end and purpose, &c."

"In pursuance whereof the following orders were made."

"June 6th, 1692."

"By his Excellency, the Governor and Council in Assembly."

"The House, upon their explanation of the fourteen pence per ton, having declared their sentiments thereof to be for duties belonging to, and vested in the King, The Board think it necessary, that of allships and vessels that shall hereafter clear, the same be secured and collected by the Naval officer; and lodged in bank until his Majesty's pleasure therein shall be further known, &c."

June 8th, 1692.

"Notice be given to Cæcil Butler deputed by Col. Darnall, as Naval officer, that he forbear further to collect the fourteen pence per ton Fort duties; it being ordered to be collected by the collector, &c. the same to be signified publickly by an order of this Board, to be set up in the collector's office."

"The foundation of Mr. Darnall's petition was the following royal letter which was produced and read at the same time."

"William R.

"Trusty and well beloved, we greet you well: Whereas our right trusty, and well beloved Charles Lord Baltimore, hath by his humble peti-

tion represented unto us that *he has not received any benefit of our royal letter of the 1st of February, 1689; nor of an order of council of the 26th February, 1690, both of which gave him liberty by his agents in Maryland, to collect his revenues and duties there: That he is informed from his agents there, that by reason of their long confinements and other hardships, in that province, they were rendered altogether incapable of acting for him, whereby he has received returns from thence; this last shipping, we have thought fit upon consideration thereof, and at the humble request of the said Charles Lord Baltimore hereby to signify our will and pleasure to you, that you do take care, and give strict orders, as there shall be occasion that Henry Darnall, Gent, who for several years has been the petitioners agent, and receiver in Maryland, as also such person or persons, as the said Henry Darnall shall appoint, be permitted to live peaceably and quietly, and to act as formerly in receiving the said Charles Lord Baltimore's dues and revenues in that province. And our further pleasure that no ship or, vessels be cleared in Maryland, before the said Lord Baltimore's agent and receiver general shall have received his dues from the shipping there: they behaving themselves peaceably, and with due submission to our government: And for so doing, this shall be your warrant. And so we bid you farewell. Given at our court at Whitehall, the 12th day of November, 1691, in the third year of our reign.*

BY HIS MAJESTY'S COMMAND.

NOTTINGHAM,

To our trusty and well beloved
Lionel Copley, Esq. Capt. General and
Governor in chief in and over our
Province of Maryland, in America.
And to our chief Governor or Governors
for the time being.

The above Act together with Mr. Darnall's petitionary demand, in behalf of Lord Baltimore's dues and revenues, and the opinion of both houses thereon being transmitted to England, received final determination by his Majesty in council, from which the following is extracted,

“At the Court at Whitehall, 23d February, 1692.

PRESENT

“THE KING’S MOST EXCELLENT MAJESTY.

L. Archb. of Canterbury,	Earl of Rochester,	Lord Bishop of London,
Lord President,	Earl of Monmouth,	Sir Robert Howard,
L. Great Chamberlain,	Earl of Montague,	Mr. Vice Chamberlain,
Lord Chamberlain,	Earl of Scarborough,	Mr. Chanc’r of Exch’r,
Earl of Bedford,	Earl of Warrington,	Lord Chief Justice Hale,
Earl of Bridgewater,	Earl of Renelagh,	Sir Edward Seymour,
Earl of Macclesfield,	Viscount Newport,	Sir Henry Goodrick,
Earl of Nottingham,	Viscount Faulkland,	Mr. Bascowen.

The Right Honourable, the Lords of the Committee for the trade and plantations, having laid before his Majesty in council a report from Sir Thomas Trevor Knt, their Majesty’s solicitor general, upon several demands of the Lord Baltimore as Lord Proprietary of of their Majesty’s province of Maryland, which having been read at the Board as followeth, viz :—

To the Right Honourable, the Lords of the Committee of trade and plantations.

In obedience to your Lordships order of reference, of the 19th of September last, I have considered of the several demands made by my Lord Baltimore, in the province of Maryland, and represented to their Majesty’s by the Assembly of that province, and I have been attended by the Lord Baltimore, and his council, &c. &c.

As to the second demand of fourteen pence per ton, &c. I find by an Act of Assembly of that province, 1661, it was enacted, that all vessels whatsoever not properly belonging to that province, having a deck flush Fore and Aft, coming in, and trading within that province, should pay for port duties, and anchorage, one pound of powder, and three pounds of shot, or so much in value, for every ton of Burthen to the proprietor, and his heirs, which duty hath by usage been turned into money, viz : *Fourteen pence per ton*, and so answered to the Lord Baltimore, and constantly applied to his own use, and not to the support of government, as the Lord Baltimore affirms to me, and by order of council of the 26th February, 1690. This duty of fourteen pence per ton, was directed to be answered to the Lord Baltimore as proprietor of the province; and likewise instructions given to Col. Copley, Governor of Maryland, to permit the Lord Baltimore, or his agents to receive the same without any disturbance or interruption: and I conceive upon the words of the Act, this duty doth belong to my

Lord Baltimore as proprietor, to be received by him, or to his own use. And it would be a thing of dangerous consequence to admit of parole proof, of an intention in the law makers different from the words of a law, to say that the duty which the Act calls a port duty, was intended to be a fort duty : and it seems to be admitted by the Assembly that this duty of fourteen pence per ton, doth by law now belong to the Lord Baltimore by desiring their Majesty's royal assent to an Act to invest it in their Majesty's, &c &c."

THOMAS TREVOR."

All which is humbly submitted to your Lordship's great wisdom lately passed in Maryland for the fourteen pence tonnage, be, and it is hereby set a side and disallowed. And that the Lord Baltimore be permitted, without any disturbance or interruption, to collect and receive by such person or persons as he shall thereunto authorise and appoint, the said duty of fourteen pence per ton, for port duties or anchorage, for his own use, of right belonging to him by law, as Lord Proprietary of the said province. And as well Col. Copley, their Majesty's present Governor, as the Lord Baltimore, and all others whom it may concern, are to take notice of his Majesty's pleasure hereby signified, and to comply with the several particulars of the said report.

JOHN NICHOLAS.

And accordingly, at a council held here on the 2nd October, 1693; the board being moved on behalf of Lord Baltimore, in relation to the above report, and royal order, it was ordered, that the King's commands touching the same, should be fully observed, and that the said report, and King's order should be entered in the journal of the council, and likewise in the provincial office, that all persons concerned might take notice thereof.

An act for settling the administration of the government of this province, in case of the death or absence of his Lordship's Governor, or the same being, till his Lordship's pleasure shall be further known therein. Lib, L. L. No. 4. fol. 346.

2. And be it enacted, by the Right Honourable, the Lord Proprietary, by and with the *advice and consent* of his *Lordship's Governor*, and the *upper and lower house of Assembly*, and by the authority of the same, that in case of the death or absence of his Lordship's governor, for the time being ; the first person named by the Right Honourable the Lord Proprietary, and in his Lordship's commission, to

be of his Lordship's honourable council, for the time being, then living, and actually residing in this province, and upon his death or absence, the next person likewise named of his Lordship's said council, actually living and residing as aforesaid, successively, shall immediately take upon him the administration of the government of this province, and shall with the advice and consent of his Lordship's council, for the time being, execute all powers and authorities which were or shall be given to such governor, in relation to the government until the return of such governor, if absent, or until his Lordship's pleasure shall be further known, or that he otherwise directs therein.

An Act for punishment of such as shall counterfeit the Lord Proprietar's greater or lesser seal at arms within this province. Lib. L. L., No. 4. fol. 371.—[Passed 8th June, 1717.]

Be it enacted, by the Right Honourable the Lord Proprietary, by and with the advice and consent of his Lordship's Governor, and the upper and lower Houses of Assembly, and by the authority of the same, that from and after the end of this present session of Assembly, any person or persons whatsoever, that shall presume to counterfeit the great seal of this province, for the time being, or the *sign Manual*, or *seal at arms* of the *Lord Proprietary* of this province, or any other, the public seals of this province, and shall within this province make use of any such counterfeit, seal or sign Manual of the said *Lord Proprietary*, or *his heirs*, or any other public seal of this province, or shall steal away any of the said *true seals*, or without lawful warrant or authority, shall falsely or corruptly, or with evil intent affix any of them to any deed, warrant or writing, and shall afterwards within this province publish or make use of any such deed, warrant, or writing, as if such respective seals had been affixed thereunto by such lawful warrant and authority as aforesaid, *shall forfeit to the Right Honourable the Lord Proprietary and his heirs*, all his goods and chattels, lands, and tenements, whereof such offender shall be possessed at the time of committing the same offence, the one half thereof to be applied towards the *support* of a public school within the county where the offence shall be committed, the other *half* to the *informer*, or *him* or *them that shall sue* for the same, and shall be whipped with thirty nine lashes on his bare back; stand in the pillory two whole hours, and be banished the province forever.

CHAP. XVIII.

[Passed 26th October, 1723.]

An Act for quieting the possessions of the Indians inhabiting on Nanticoke, and Choptank rivers. Lib. L. L. No. 4. fol. 601.

Whereas the Indians inhabiting on Nanticoke and Choptank rivers have complained to this *general Assembly*, of several incroachments made into the *ancient bounds and limits of their lands, heretofore granted them by the Lord Proprietor, and confirmed by several Acts of Assembly of this province*: For remedy whereof, and to prevent complaints of like nature for the future."

Be it enacted, by the Right Honourable the Lord Proprietor, by and with the advice and consent of his Lordship's Governor, and the upper and lower house of Assembly of the same; that the Nanticoke Indians, and their descendants, shall have, hold, occupy, possess, and enjoy a free, peaceable and uninterrupted possession, of all that tract of land: then goes on to set out the boundary, thereof surveyed and returned by the Honourable Philemon Lloyd, Esq. Col. Richard Tilghman and Col. Matthew Tilghman Ward, commissioners, appointed by his Honour, the Governor in the year seventeen hundred and twenty one. The Indians were impowered to sell these lands, but unless the purchase was made of them when sober, and acknowledged by them before the justices of the county court in court sitting, or before one or more of his Lordship's council, who are hereby impowered to take the same, otherwise to be void, and of no effect.

CHAP. IV.

An Act to repeal a certain Act of Assembly, entitled, an Act to prevent the growth of Popery within this province. Lib. L. L. No. 4. fol. 386.—[Passed 10th May, 1718.

2. Be it enacted, by the Right Honourable, the Lord Proprietary, by and with the advice and consent of his Lordship's Governor, and the upper and lower House of Assembly, and the authority of the same, that the said Act of Assembly to prevent the growth of Popery, BE, AND IS HEREBY REPEALED.—[Repealed of an Act of the 2nd and 12th of W. 3. Ch. 4. Act of 1704, Ch. 59, Repealed.

CHAP. VI.

[Passed 10th August, 1716.]

An Act for laying the additional duty of four pounds current money per poll, on all Irish servants, to prevent the importing too great a number of Irish papists into their province, and four pounds current money per poll, an additional duty on all Negroes, for raising a supply towards defraying the public charge of this province. Lib. L. L. No. 4. fol. 300. *Dissent.*

See the letter of dissent from Lords Baltimore and Guildford, recorded in the council proceedings. Anno. 1717. fol. 312.

When Charles the 6th Lord Baltimore, (father of the honourable Louisa Browning) became Proprietary of the province of Maryland, it was just eighty eight years from the time his great grand father, (Cæcelius Lord Baltimore) first took possession of the province. Their Lordship's from time to time made various grants of land, and although in many instances the grants were free from fine or caution money, a quit rent was always reserved to their Lordship's and their Heirs, Lords Proprietary's of the province, and at the decease of Frederick the 7th and last Lord Baltimore, they were much the same as they were at the death of Charles Lord Baltimore, his father.

The quit rents at the time of the revolution, as well as afterwards, could be ascertained to amount to something less than *ten thousand pounds sterling*, per annum.

The profit or income arising from manors, it is impossible for me to set forth, as they produced an income in various ways with the additional advantage of sale, provided the Proprietary was so inclined, at the same time he was compelled to make a reservation of the quit rents.

The following manors remained undisposed of at the time of the revolution, and up to the time that the Americans declared themselves independent of Great Britain, the 4th of July, 1776. The present constitution was established by a convention of delegates at Annapolis, August 14th, 1776.

Monococy manor, and the reserves thereon as re-	Acres.
turned by the surveyor, Frederick county	13,148
Kent manor, Kent county	3,018
Gunpowder manor, Harford county	5,608
Queen Annes manor, Queen Annes county	4,322
Nanticoke manor, Dorchester county	4,777
Woolsey manor, do do	5,131
Mill manor, do do	1,667
Weicomico manor, Worchester county	5,950
Anne Arundel manor, Anne Arundel county	301
Chaptico manor, St Marys county	6,110
Beaver Dam manor, do do	7,680
West St. Marys and St. Marys manor, do do	1,370
Snow Hill, St. John, and St. Barbaras manors, Som't co'ty	774
Calverton manor, Charles county	3,412
Pangaiah, do do	1,001
Zachaink, do do	5,304
Elk North and East manors, Cæcil county	3,976

These two last manors were laid out for 6000 each,

and it is presumed they were not in reality less:

Samuel Chase and John Churchman, purchased
two tracts of land in Coecil county, each 10,000 acres.

Lands rented by Talbot in Coecil, sold for 118,545,4,11

John Ogilvy purchased a mill, &c. 370 acres, 1218,5,0

My Lady's *two* manors and reserves, Baltimore county 45,000

My Lord's *two* manors and reserves, Westward of
Fort Cumberland, Allegany county 125,130

Some of these manors which were only valued at
forty two thousand pounds, sold by the state commis-
sioners for upwards of one hundred and sixteen thou-
sand pounds, current money.

The reserves within five miles of Annapolis, in Anne Arundel
county.

By an act passed at the general Assembly of Maryland, the 2nd of
November, 1683, (his Lordship in person) and further continued from
time to time, the following lands were set out for towns under the an-
nexed titles: October the 18th 1694, and the 22nd of May, 1695,
Annapolis, in Anne Arundel county, and Williamstadt in Talbot, to
be called Oxford, a hundred acres each, to be laid out into a hun-

dred lots, each yielding and paying to the Lord Proprietary and his heirs for ever, one penny current money. Many of these towns were afterwards re-surveyed, and laid out afresh in the time of Charles the 6th Lord Baltimore's Proprietaryship, as also various Acts passed the Legislature for laying out ground for other towns, and in all of which there was a reservation of a rent charge, which run as follows, or to that effect. Owners of lots in the said town, to pay one penny sterling per annum, for each lot taken up, &c. to the Right Honourable the Lord Proprietor, and his his heirs for ever.—[Passed 28th September, 1745. Ch. 5.]

			Acres	Lots
1728, Oct. 28th, Leonard Town, St Marys county			50	into 80
1728, July 10th, Charles,	Charles	do	50	100
Baltimore,	Baltimore	do	60	60
1730, May 21st, Coecil, -	Coecil	do	20	20
June 16th, Chester, - -	Kent	do	100	100
1732, August 1th, Jonas, -	Baltimore	do	10	20
Salisbury, -	Somerset	do	15	20
Kings, - -	Queen Annes	do	30	30
Bridge, - -	Dorset	do	40	40
Bened't Leon'd, Charles	do		15	20
1733, April 11th, Janson, -	Anne Arundel	do	30	40
Princess Ann,	Somerset	do	25	30
1786, May 6th, Frederic, -	Coecil	do	30	60
George,	Kent	do	60	100
1742, Oct. 29th, Snow Hill	Somerset	do	100	100
Bladensburg,	Prince Georges	do	50	60
Charles, -	Coecil	do	200	200
Chap. 23 S. 16. To the last mentioned town, 300 acres were added for a common, and 2d sterling to be paid the Lord Proprietor, per annum, for each lot.				
1744, June 4th, Newport Town, Worcester county			40	80
Upper Marl'b'gh, Prince Georges	do		100	100
1751, May 28th, George,	Frederick	do	60	60

In addition to the foregoing property income, and patronage, the said Charles Lord Baltimore was entitled to caution money for vacant lands, fines of a years rent, upon every alienation, escheat, fines and forfeitures, appointments of office, presentations to 44 livings, and

which composed the property conveyed by the said Charles Lord Baltimore to his said daughter, the Honourable Louisa Browning.

"At a session of Assembly, begun and held at the city of Annapolis, 15th day of May, in the 37th year of the dominion of the Right Honourable Charles, absolute Lord and Proprietary of the Provinces of Maryland and Avalon, Lord Baron of Baltimore, &c. &c. Anno Domini, 1751, and ended the 8th day of June, the following laws were enacted."

"The Right Honourable Charles Lord Baltimore deceased the 23d of April, 1751, the commencement of this Session: the Acts whereof were consequently void, as being enacted under an authority no longer subsisting; therefore in the subsequent sessions this present year, held under the commission of the present Right Honourable Proprietor, and his then guardians, Ch. 27, S. 5. All Acts of this Session, are made good and valid in law, to all intents, constructions, and purposes whatsoever, for and during the continuance in the same said several Acts mentioned, the death or demise of the said late Charles Lord Baltimore notwithstanding."

CHAP. XXV. Sec. 15.

An Act for laying out and erecting a town on Patomac river, above the mouth of Rock creek, in Frederick County. Lib. B. L. C. fol. 545.

And be it further enacted, by the authority aforesaid, that all and every person and persons taking up and possessing the lots aforesaid, or any of them, shall be, and are hereby obliged to pay unto the Right Honourable the Lord Proprietary, his heirs or successors, the yearly rent of one penny sterling money for each respective lot by them so taken up and possessed, to be paid in the same manner as his land rents in this province now are, or hereafter shall be.

Saving unto, the Right Honourable Lord Proprietary, his heirs and successors, their respective right. Any thing in this Act to the contrary notwithstanding.

At a Session of Assembly, begun and held at the city of Annapolis, the 7th day of December, in the 1st year of the dominion of the Right Honourable Frederick, absolute Lord and Proprietary of the provinces of Maryland and Avalon, Lord Baron of Baltimore, &c. and ended the 14th day of the same month, Anno Domini, 1751: The following laws were enacted.

SAMUEL OGLE, Esq. Governor.

CHAP. XXVII. Sec. 5.

5. And be it likewise enacted, that several Acts made at a Session of Assembly, begun and held at the city of Annapolis, the fifteenth day of May last, be, and are hereby made good and valid in law, to all intents, constructions, and purposes whatsoever, for and during the continuance mentioned in the said several and respective Acts: the

death or demise of the said late Charles Lord Baltimore notwithstanding.

7. And **be it further enacted**, that from henceforth the commission, power or authority of the Lieutenant Governor, or commander in chief of this province, for the time being, determined, or dissolved by the death or demise of the Right Honourable the Proprietary, that now is or any of his heirs or successors, having *legal right* to the *Government* of the said *province*; but that such Lieutenant Governor, or commander in chief, shall continue and act as such, until he shall be lawfully removed or discharged, or his commission superceded or determined by the next successor. And that hereafter all judges, justices, magistrates, and ministers of justice, and all and every person and persons, in any of the offices, places, and employments within this province, shall continue and act in their respective offices, places, and employments, according to their respective functions, duties, and stations, notwithstanding the death or demise of the Right Honourable the Lord Proprietary that now is, his heirs, or successors, until they shall be lawfully removed or discharged, or their respective commissions superceded or determined by the next successor, or the Lieutenant Governor, or the commander in chief, for the time being, any law, usage, or custom to the contrary notwithstanding.

CHAP. XXXIII.

A supplementary Act to an Act, entitled, an Act to aid the title of purchasers of lots in Princess Ann Town, in Somerset county. Lib. H. S. fol. 124.

P. 1751. Ch. 16. In which Act, there being no saving clause to preserve his Lordship's quit rents; and doubts avin arisen, whether the right of escheat which might happen to arise to his Lordship at any time after the 15th May, 1751, in the said lots, or any of them, be not by that Act extinguished: it is enacted by the present Act, that the said Act of 1751, shall not bar or any way prejudice his Lordship's right to the quit rents, which shall issue or grant due out of any of the said lots, or part of any lot, in the said town, &c. And that nothing in the said Act shall bar or any ways prejudice his Lordship's right of escheat which may have arisen since the said 15th May, 1751. or which may hereafter arise of, in or to any of the said lots, or any part of them, &c.

At a Session of the general Assembly of Maryland, begun and held at the city of Annapolis on Thursday the 23d of March, in the year of our Lord, 1780, and ended the 16th day of May, the following laws were enacted.

CHAP. XVIII.

An Act to abolish for ever the payment of quit rent. Lib. T. B. H. No. 1. fol. 216.

Whereas it appears to this general Assembly highly improper for, and degradatory to the citizens of this sovereign and independant state, to pay quit rent, or tribute to the subject of any foreign prince, and that not only their honour and dignity, but their safety requires that no subject of an enemy should draw a revenue from this state: and whereas since the present glorious revolution, the payment of quit rent has ceased throughout the United States, *and sound policy dictates, that the citizens of this state should hold their lands on equal terms with the citizens of other states:* And whereas the payment of quit rents from the declaration of independence, hath ceased, and of right ought to cease, being an acknowledgment of a seignory incompatable with the absolute sovereignty of this free and independent state,

2. Be it therefore enacted, by the general Assembly of Maryland, that the citizens thereof, from the declaration of independence, and for ever thereafter, be, and they are hereby declared to be, exonerated and discharged from the payment of the aforesaid quit rent, and that the same shall be for ever abolished and discontinued.

CHAP. XLV.

An Act to seize, confiscate and appropriate all British property within this state. Lib. T. B. H. No. 1. fol. 451.—[Passed 2d February, 1781. Proviso]

And provided also, that all such British subjects, who may have manifested their attachment to this State by affirmative acts of friendship, shall be excepted out of this Act, and upon application to the general Assembly, by petition, their property, or the value thereof, shall be restored to them, provided such application be made on or before the first day of March, seventeen hundred and eighty two.

CHAP. XLIX.

An Act to appoint commissioners to preserve confiscated British property. Lib. T. B. H. No. 1. fol. 460.

William Pacha, Uriah Forest, and Clement Hollyday, Esq.

CHAP. LI.

An Act to procure a loan, and for the sale of escheat lands, and the confiscated British property therein mentioned, Lib. T. B. H. No. 1. fol. 462.

4. And to make certain the true and the speedy payment of the said certificates and interest, Be it enacted, that the following property within this state, of persons well known to this general Assembly to be British subjects, within the description and intent of the Act of this present session, to seize, confiscate, and appropriate all British property within this state; that is to say, the several manors in the counties of St. Marys, Charles, Kent, Queen Annes, Dorchester, Somerset, and Worcester; which belonged to the *late Lord Proprietary*, and which remain unsold by the commissioners of *Frederic, late Lord Baltimore*,

CHAP. LX.

An Act respecting claims to confiscated British property, and to direct the commissioners in certain cases. Lib. I. O. H. No. A. fol. 209.—[Passed 15th June, 1782]

S. 3. And be it enacted, that every person who shall neglect to deliver in his claim as aforesaid, or who shall neglect to prosecute his action, as above provided, shall forever be barred of all his right, and interest in such property so taken into possession by the commissioners, *saving to infants, feme coverts, persons out of the state, in prison, or of unsound mind: their right for one year after disability removed.*

CHAP. LXV.

An Act to limit the time for bringing and settling claims against this state. Lib. T. B. H. No. A. fol. 523.—[Passed 22d January, 1785.

Another Act. 1785, Chap. x.

Be it enacted, by the general Assembly of Maryland, that all claims upon this state by any citizen thereof, which have arisen before the tenth day of January, seventeen hundred and eighty five, shall be brought in, liquidated, and settled, on or before the tenth of November, seventeen hundred and eighty five; and no claim against the state by any citizen thereof, which did arise on any account or transaction whatsoever, before the tenth day of January, seventeen hundred and eighty five, shall after the said tenth day of November, seventeen hundred and eighty five, be passed or settled by the auditor, or intendant, or paid by this state, unless the person having such claim, is or shall be an *infant, non compos mentis*, or feme covert, or be out of this state, in which cases *one year shall be allowed to such persons respectively after disability removed*, or the persons so being, out of the state returns, to bring in and settle such claim.—Passed 12th March, 1786.

An Act to extend the time limited for bringing in and settling claims against this state by the citizens thereof, and for limiting the time, for bringing in and settling claims against the said state, by citizens of the United States. Lib. T. B. H. No. A. fol. 606

1784. Chap. lxv. S. 1. Whereas an Act entitled an Act, to limit the time for bringing in and settling claims against this state. It was enacted that all claims upon this state by any citizens thereof, which *which have arisen before the tenth day of January, seventeen hundred and eighty five*, shall be brought in, liquidated and settled, on or before the tenth day of November, seventeen hundred and eighty five: and no claims against the state by any citizen thereof, which did arise on any account or transaction whatsoever, before the said tenth day of January, seventeen hundred and eighty five, shall after the tenth day of November, seventeen hundred and eighty five, be passed or settled by the auditor, or intendant, or paid by this state, unless the person having such claim, is or shall be an *infant, non compos mentis*, feme covert, or be out of this state, in which case *one year shall be allowed*

to such *persons* respectively, *after the disability is removed*, or the person so being *out* of the state *returns* to bring in and settle such claims. And whereas it is represented to this general Assembly, that sundry citizens of this state, having claims upon the same through the remoteness of their situation from the auditor, or intendant, and other causes, have not brought in the said claims, to be liquidated and settled, on or before the aforesaid tenth of November, seventeen hundred and eighty five, as directed by the above recited Act: and it appearing reasonable that further time should be allowed for the purpose, to such persons as have just claims against this state.

2. Be it enacted by the general Assembly of Maryland, that all claims on this state, by any citizens thereof, (except claims for the depreciation, and pay of the army, previous to the first day of August, seventeen hundred and eighty,) which have arisen before the said tenth day of January, seventeen hundred and eighty five, may be brought in, passed, and settled, by the auditor general, or intendant, on or before the first day of June, seventeen hundred and eighty six, and paid by this state, any thing in this recited Act to the contrary, notwithstanding.

3. Be it enacted, that all claims against the said state by any citizen of any of the United States, shall be brought in and settled as aforesaid, on or before the first day of December, seventeen hundred and eighty six, and that no claims against this state as aforesaid, which shall not be brought in, and settled agreeable to the directions of this Act, shall hereafter be paid by this state, unless the person having such claim be *an infant*, *feme covert*, or person *non compos mentis*; or in some *foreign country*, in which *cases one year* shall be allowed to bring in and settle such claim, *after disability removed*, or the return of such person to *this state* or some one of the United States, as the case may be.

4. And be it enacted, that a copy of this Act, under the great seal, shall be sent as soon as may be to the respective executive powers of the other *United States*, by the *Governor* of this state, with a request that the substance of this be published.

An Act to extend the time for bringing in and settling claims against this state. Lib. T. B. H. No. B. fol 105.—[Passed 20th January 1787.

Whereas it is represented to this general Assembly, that sundry claims against this state have not been brought in to be liquidated and settled, as directed by law, for want of notice, or other unavoidable impediments.

2. Be it enacted by the general Assembly of Maryland, that all claims against this state, on account of property confiscated, depreciation, and pay of the army, or otherwise, by any citizen thereof, or any citizens of the United States, or their executors, or administrators, which have arisen before the time limited, by law, for them to be brought in, may be brought in, passed and settled by the auditor general, or before the first day of September, seventeen hundred and eighty seven, when passed and settled as aforesaid, shall be paid by this state.

state, as the law directed, any thing in former Acts to the contrary, notwithstanding; provided the claimants, or the executors or administrators, make appear by the oath or affirmation, or otherwise to the satisfaction of the auditor general, *that for the want of sufficient notice, or for some unavoidable impediment* they could not bring in their claims aforesaid, within the time heretofore limited by law.

An Act to direct descents. Lib. T. B. H. No. B, fol. 161.—Passed 20th January, 1787.

Supplementary and other Acts, 1779. Chap. 114, 1779. Chap. xlix.

And be it enacted, that nothing herein contained shall be construed or taken to alter, or in any manner change the course of descent as heretofore used, so as to effect the case of any entail or limitation in tail, whatever, made and established, in being before the commencement of this Act, but the same shall during the continuance of the estate in tail or limitation, in tail, and until the same may be *legally destroyed or barred*, descend according to the course of descent *heretofore used and established*, nor shall any thing herein be taken or construed to interfere with, or *alter* a limitation, grant, or gift, by devise, conveyance or otherwise, to *special or particular heirs*, in a different course of descent from it by this specified, but in such cases the descent shall be according to the limitation, or form of the gift, lease, or grant, until the entail shall be legally barred or destroyed; nor shall this Act, or any thing therein contained, be taken or construed to bar or affect any widow right of dower.

On the 27th of November, 1779, an Act was passed by the Legislature of Pennsylvania.

1 Vesting in the Common Wealth the estates of the late Proprietaries of Pennsylvania for the use of the citizens of the state.

2. The estates to be at the disposal of the Legislature.

3. Confirming all previous grants by Proprietarys, or their agents.

4. Providing, that all estates, &c. and Proprietary tenths or manors, surveyed and returned into the land office, on or before the 4th day of July, 1776, together with *quit* and other *rents* reserved thereon, and *all arrears* thereof be *reserved and confirmed* to the *Proprietary's*.

5. All quit rents, &c. for lands not within manor to cease, and the lands, &c. discharged therefrom.

6. Arrears of purchase money for lands out of manors to be payable to the state.

7. All former laws vesting estates in Proprietary, repealed.

8. The sum of one hundred and thirty thousand pounds sterling, to be paid out of the treasury of the state, to the *representatives* of the *late Proprietary's*: (which sum has been fully paid.)

Ferdinand and Brian Fairfax of Virginia, both went to England during the rebellion, and Lord Fairfax remained neuter, but *none* of *their* *auditor*, *was* *confiscated*.

Having such claim, *as* *J. S. Vol. 1. Chap. 8. Page 197. Article 5.*
covert, or be out of the

that the Congress shall earnestly recommend it
he states, to provide for the institution of all es-

tates, rights, and properties, which have been confiscated, belonging to real British subjects, and also of the estates, rights, and properties resident in districts in the possession of his Majesty's arms, and who have not borne arms against the said U. S. And that persons of any other descriptions shall have free liberty to go to any part or parts of the thirteen U. S. and therein to remain twelve months, unmolested in their endeavour to obtain the restoration of such of their estates, rights, and properties, as may have been confiscated; and that Congress shall also earnestly recommend to the several states a reconsideration, and division of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which on the return of the blessings of peace, should universally prevail. And that Congress shall also earnestly recommend to the several states, that the estates, rights, and properties of such last mentioned persons, shall be restored to them, they refunding to any persons who may be now in possession, the bona fide price, (where any has been given) which such persons may have paid on purchasing any of the said lands, rights, or properties since the confiscation. And it is agreed, that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

Art. 6. That there shall be no future confiscations made, nor any prosecutions commenced against any person or persons for, or by reason of the part which he or they may have taken in the present war; and that no person shall, on that account, suffer any future loss or damage, either in his person, liberty, or property, and that those who may be in confinement on such charges, at the time of the ratification of the treaty in America, shall be immediately set at liberty, and the prosecutions so commenced be discontinued.

Every citizen that has read the foregoing statement, I trust must now be convinced of the merits of my case; and that among the few laws and grants, &c. &c. which I have selected, they have found sufficient proof to establish the advantages received under the Proprietary government. Is there a gentleman in this state who has it in his power does not feel a pleasure in saying his ancestors came with, or at the time the Proprietary government existed? and it is observed that most of these gentlemen hold grants of land from the Proprietary, which they confirm to themselves by laws enacted since the revolution, in the same manner as they made laws to deprive the Proprietary of his property.

Cæcilius Lord Baltimore was particularly attentive in the selection of those whom he first engaged with, and who carried with his brother, that they should be sober virtuous men, but not looking so much for present profit as reasonable men, but few governors, and those not interested gentlemen, granting liberties with a view to reserve for himself by his own common store

in the selection with his brother not looking in to have reserved

It is to be observed that none of the Governors, (except the Lord Proprietary's sons, or brothers,) ever obtained any grant of land from the Proprietary.

It was also his Lordship's desire that his agents should purchase the natives' interest in any lands, rather than take from them by force, what they considered their right, and it appears the same conduct was strictly adhered to by their Lordships, as they became Proprietors in succession; a case of this nature occurred a very few years prior to the revolution, and which was related to me, by Charles Carroll of Carrollton, Esq. whose ancestors having obtained from Charles Lord Baltimore, (father of the honourable Mrs. Browning,) *a grant of 10,000 acres of land in Frederick county, with liberty to select the best land they could find; they first fixed on a spot beyond Frederick Town, but finding the land better on this side Frederick, changed to the spot which the present Mr. Carroll now possesses, on Monocacy river, who went there, and entered into a treaty with the Indians, and purchased their pretended right for 1200 sterling, and which he paid them for in different merchandise, such as suited them. People wandering over a country certainly cannot give them a right or title to the soil, but the colonist who conciliates the affections of the natives, and gives a consideration for his territory, acquires the praise due to humanity and justice.

If there is no money in the Treasury, as it has been said, the government and Treasury have cognizance of various sums of money, which have been placed out on different securities by the Treasury, and which money was raised by the sale of confiscated lands: can any person pretend to say this is not equally at the disposal of the state, and that making a grant of part of this to do justice to the legitimate descendants of the Baltimore family, whose fortune was spent in colonising the state, would be doing an impolitic act, and hurt the parties interest. I trust it would not, but redound to the credit of all parties concerned, and I consider it only wants explaining to their constituents, whom from the conversations I have had with them in various parts of the state, think that right and justice ought to take place, and that sound policy dictates, a remuneration should be made in proportion to the property confiscated, ^{charged} on the same terms as other states have done, but particularly of Pennsylvania, both of which having been colonised on the same terms, reap fewer advantages from their independence ^{as} laws ^{of} states in the Union.

of one hundred

* The grant of the Treasury first appears to have been made on the 10th of April, 1723, to the Carroll family, some of whom dieing, there were different assignments from: (who's time, up to 1734: but I understand the land was not taken up till the revolution, by the present Charles Carroll of Carrollton, Esq. and Brialmont; and the only money that appears ever to have been given, was a rent of 120 per annum, which the present Mr. Carroll, as Auditor, was to collect, and he abolished of quit rents, 1780.

FINIS.

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AN ABSTRACT
OF THE CONDITION OF
GRANTING OF LANDS
IN MARYLAND,

AS PROPOUNDED BY
CECILIUS LORD BARON OF BALTIMORE.

ALSO:

A SHORT ACCOUNT OF THE
MANOR AND RESERVED LANDS,

Taken up under his Lordship and his Descendant's orders, with a sketch
of their Lordships, and their Relations, who assisted
in establishing the settlement.

BY CHARLES BROWNING.

Baltimore:

PRINTED FOR THE PROPRIETOR.

.....
1825.



PREFACE.

I did conceive from what I had stated in my Pamphlet, published in 1821, page 7 and 8, as also from the documents laid before the Legislature of Maryland, 1784, by Henry Harford Esq. the gentlemen of Maryland particularly the Landholders, were full aware of all the circumstances concerning his case, as well as my own, and all that had been done either by my father or Henry Harford; however finding I am mistaken, I have given you an abstract detail of the Quint-rent, Manor, and reserved Lands, as entered in the Land Office, prior to the year 1776 July 4th, my only motive for doing which, is to prevent prejudice being entertained to my injury, from the various stories that have been circulated, in consequence of the distribution of the Pamphlet that was published by the gentlemen of the Washington square committee, at the various meetings both in town and country, and that their intention is to bring this business before the next Legislature. I hope at the same time it will be understood, I by no means presume to dictate to any gentleman, either collectively or individually.

PEDIGREE

OF THE

BALTIMORE FAMILY,

PROPRIETARIES OF THE PROVINCE OF MARYLAND.

John Calvert died 1632
 Cecilius Calvert, Second Lord Baltimore, died 1675. — Married Ann Daughter of Thomas Lord Arundel.

Charles Calvert, Third Ld. —
 Baltimore, Died 21st of Feb. 1714, Aged 85.

Benedict Leonard Calvert, — Married Charlotte Daughter of Edward Henry Lee, Fourth Lord Baltimore, died 24th of April, 1715. Earl of Litchfield.

Charles Calvert, Fifth Ld. — Married Mary Daughter of Baltimore, died the 24th of April, 1751. Sir Theodore Janssen, Baronet.

Fred. Calvert, — Married Diana, Sixth Lord Baltimore, died Sept. 1771, <i>without issue.</i>	— daughter of the Duke of Bridgewater, died 1758.	Jno. Brown — ing.	— Married Louisa Caroline Calvert, 15th of Calvert, May, 1762, died Married November, 1821 Robert Eden.
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Charles Browning born the 29th of July, 1765. — Married Elizabeth Anne, Daughter of Sir William More, Baronet.

Charles Calvert, Browning, died an Infant,	Charles Calvert.	Louisa.	Frederick.	Cecil.	Elizabeth.
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Charles Lord Baron of Baltimore, Proprietary of the Province of Maryland in America, and Avalon Newfoundland, by his will bearing date the 17th of November 1750, devised all his Estates in Great Britain, together with the Province of Maryland, and Avalon in Newfoundland, (except &c.) to Trustees therein mentioned, to the use of his only son Frederick Calvert afterwards Lord Baltimore, in strict settlement, for life.

Remainder To Trustees during the life of his son Frederick Calvert, to preserve contingent remainders.

Remainder To the sons of his body successively, in tail male.

Remainder To the use of the daughters of his body in tail general, with cross remainders to a surviving or only daughter in tail general.

Remainder To the use of his oldest daughter Louisa, in Fee subject to £20,000 to Caroline, his second daughter, payable at 21 years of age, or marriage, and if she died under 21 years, and without being married, the £20,000 to sink into his estate.

Frederick Lord Baron of Baltimore, on coming of age 1753, being about to be married, applied to the Parliament of England, for an Act to cut off the entail of the Province of Maryland, which was refused.

His Lordship on the 2nd of January 1761, executed deeds of conveyance, of lease and release, for the purpose of docking the entail, these deeds were never recorded in Maryland, agreeable to Act of Assembly, requiring every person to record their deeds within a given time six months.

His Lordship next caused a common recovery in the Province, to dock the entail, 3rd of July, 1767, this was not valid.

Frederick Lord Baron of Baltimore, died the 4th of September 1771, "By his will proved 12th of March, 1772, he devises the Province or territory of Maryland, to trustees therein named, to raise the sum of £20,000, he then devises the Province in Maryland, &c. to a certain youth called or known by the name of Henry Harford, son of Hester Wheland, of the kingdom of Ireland, living in Bond street, and the heirs male of his body, lawfully to be begotton; in default of such issue, to the heirs male lawfully begotton on the body of a certain female called Frances Mary Harford, daughter of said Hester, and to the heirs of the said Frances Mary; and if there should be failure of issue to Mrs. Eden, my youngest sister, and to her and her heirs and assigns for ever. He then devises the £20,000 to be divided between his eldest sister Louisa Browning and her husband, and his youngest sister Carolina Eden, and her husband, 110,000 cash to be paid in 12 months, with interest on the following conditions, which is that before they receive any part of this money, they confirm all acts and deeds his Lordship has done by will or otherwise, to bar the intail of the Province of Maryland, by executing such deed or deeds, at the cost and charge or charges of his executors, as they shall think proper to confirm his Lordship's will, and such other deeds as his Lordship may have signed for the like purpose, in default of which, or that either of his sisters or their husbands, should bring any suit in law or equity, to attempt to set aside his Lordship's will, then the said bequest of the sum

of £20,000 shall become null and void, and be applied to such purposes as his Lordship's personal property.

Mrs. Browning was a minor when her father Lord Charles died, she was a lunatic a short time after her only son Charles was born 1765, Lord Frederick died 1771, when Mrs. Browning was in the same state of mind, on the 9th of February 1779, a commission was issued under the Great Seal of Great Britain, to inquire of the lunacy of the said Louisa Browning, and she was by an inquisition taken thereon, found to be a lunatic. It therefore appears that both Louisa Browning as well as her only son, were incapacitated from acting at the time Lord Frederick died, and that her said son Charles had no power to act, till the said Louisa's decease, 1821 November the 14th, and that both herself and son came under such excepting clauses as were allowed under the Acts of the Assembly of Maryland 1780, and which exception or reservations are always allowed in such, and the like cases, as is by an Act of Assembly passed the 3rd of June 1715, Ch. 23. S. III. wherein it states that any person not being of age Femme Covert, non compos mentis, imprisoned, or beyond the sea, shall have such time as the act directs, until such a disability is removed. Having told you in my former Pamphlet how my father John Browning acted on Lord Frederick's decease, he having no power to dispose of my right, the property all coming by my mother, I shall not therefore make any further remarks.

By an Act of the House of Assembly of the said Province of Maryland, Lib. C. and W. H. fol. 112, Lib. W. H. fol. 115, and Lib. W. H. and L. fol. 4, and confirmed among the perpetual laws in the year 1676,

Ch. 2, the said grant or donation, and the true and lawful and undoubted right and title, of the said Cecilus Lord Baron of Baltimore, as absolute Lord and proprietary of the said Province, and unto all islands, ports and creeks, to the same belonging, was recognised and acknowledged.

The following are the first conditions of PLANTATION which appeared on record, however from various references it should seem as if the Proprietary had prior to the first settlers embarking for America, published under his hand and seal, certain proposals by the title of "Conditions of PLANTATION," but which is no where to be found on record.

1636 "Whereas the Adventurers to plant that our province of Maryland have made suit unto us, that we would be pleased to grant unto them, under our Great Seal of our said Province, such proportions and quantities of land, there upon such considerations and agreements, as we have here propounded and promised, to grant the same, unto all such adventurers, for as much as we are bound in honor really to perform the same in all points, these are therefore to will, and authorize you, that presently and upon the receipt hereof, you make or cause it to be made under our Great Seal of that our said Province, unto every first adventurer, for every five men aged between sixteen and fifty years, which such adventurer did bring into our said Province to inhabit and plant there in the year of our Lord, 1633, and unto his heirs for ever, a grant of two thousand acres of land, of English measure, for the yearly rent of £400 of good wheat, and to every Adventurer which in that year, did bring a less number

than five men into that our said Province, of the ages aforesaid, to inhabit and plant there, and unto his heirs for ever, a grant of one hundred acres of land, of like measure for himself, and one hundred acres more for his wife, (if he brought any,) and for and in respect of every servant, and fifty acres more for every child under the age of sixteen years, for the rent of *lb*10 of wheat yearly, for every fifty acres, and every other Adventurer which hath adventured to transport men into our said Province, of the age aforesaid, in the years of our Lord, 1634, and 1635, for every ten men which such Adventurer did bring into our said Province, in either of the said years, and to his heirs for ever, a grant of two thousand acres of land, of the like measure, for the yearly rent of *lb*600 weight of good wheat, and, to every other Adventurer, which in either of the said years, did bring a less number than ten men as aforesaid, and to his heirs for ever, a grant of one hundred acres of land, (of like measure,) for himself, and one hundred acres more for his wife, (if he brought any,) and for and in respect of every such servant, one hundred acres, and for every child under the age of sixteen years, fifty acres, for the yearly rent of *lb*10 weight of wheat for fifty acres, and to every other Adventurer, who hath adventured to plant, and transport any men into our said Province, since the year of our Lord 1635, or which at any time hereafter, shall transport any men of the age aforesaid, to inhabit and plant there, until some other and further conditions of plantation shall by us be propounded, and published to Adventurers, and an authentic copy of such conditions by us signed and transmitted into our said Province, for every five men which he or they shall transport thither, and to his

or her heirs for ever, a grant of one thousand acres of English measure, for the yearly rent of twenty shillings, to be paid in the commodities of the country, for every such thousand acres, and to every other Adventurer, which within the time next aforementioned, hath or shall transport any number of persons less than five, a grant of one hundred acres for him or herself, and one hundred more for and in respect of his wife, (if he brought any) and as much for and in respect of every man servant, and fifty acres more for and in respect of every child under the age of sixteen years, and for and in respect of every maid servant, under the age of forty years, which he or she hath or shall so transport thither, and to his or her heirs for ever, for the yearly rent of twelve pence for every fifty acres.

“And we do further will and authorize you, that every two thousand acres, and every three thousand acres, and every one thousand acres of land, so to be passed or granted, as aforesaid, to any Adventurer, or Adventurers, be erected and created into a manor, to be called by such name as the Adventurer or Adventurers shall desire.”

“And we do hereby further authorize you, that you cause to be granted unto every of the said Adventurers, within every of their said Manors respectively, and to his and their heirs, a Court Baron, and Court Leet, to be from time to time held within every such Manor respectively. And to the end you may the better be informed in what manner to pass every such grant, Court and Courts as aforesaid, according to our intention, we have sent unto you under our hand and seal, a draught of a grant of a Manor, Court Lee and Court Baron, and a grant of a freehold, which precedents you are to follow, changing only the Adventurers names, the rents

and Conditions of Plantation, as the case shall require; for doing whereof this shall be your sufficient Warrant, so we bid you heartily farewell.

Given at Portsmouth, the 8th of August, 1636

C. BALTIMORE.

“To our Dear Leonard Calvert Esq.
and our Lieutenant General of the Province of Maryland, or to any other our Lieutenant General there for the time being.”

KILTY “The grants to the Adventurers, were as appears by subsequent declarations to be of an indefeasible Estate of inheritance in Fee Simple, to them and their heirs for ever; for which the Act of emigration for the purpose of settling in the Province was the sole condition of purchase, but with perpetual reserved rent in every case, this being the basis of Revenue, which the Proprietary meant to draw from his acquisition, independent of the product or profits of those lands, which he from time to time directed to be reserved and retained for his permanent Estate.”

“Dear Brother,

L. S. “I would have you pass in Freehold, to every of
“the Adventurers that shall claim or desire it,
“and to their heirs, ten acres of land, within the
“platts assigned, or to be assigned, for the town
“and fields of St. Mary’s for every person, that
“any of the said Adventurers transported or
“brought into Maryland, according to their conditions first published, and five acres of land
“to every other Adventurer, for every other
“person which he hath or shall transport thither, since that time of the first Plantation, until the thirteenth day of August, which shall

“be in the year of our Lord 1638. And for so
“doing this shall be your warrant.

Given under my hand and seal, at Warden Castle,
in the Realm of England, 29th of August, 1636.”

“CECILIUS BALTIMORE ”

“To my Dear Brother Mr. Leonard Calvert,
Esq. my Lieutenant General of the province of
Maryland.”

KILTY “The next conditions found on record, were
P. 33. published in 1641, when the Colony was at the
eve of a war with the Indians.”

The Indians at this time throughout the con-
tinent of America, had entered into a league, to
exterminate all the white people.

“Conditions propounded by the Right Honor-
able Cecilius Lord Baltimore, Lord Proprietor
of the Province of Maryland, &c. &c. &c.

“Imprimis; Every person being of British
or Irish descent, who shall transport into the
Province of Maryland, at his own expense,
twenty men between the ages of 16 and 50,
to be provided, with arms and ammunition as
hereafter stated, or any number of women be-
tween the ages of 14 and 43, shall have convey-
ed by grant to him or her, and his or her heirs
for ever, under the Great Seal of the Province,
2,000 acres of land, for which they are to pay
unto his Lordship, and his heirs a quit-rent of
forty shillings sterling per annum, to be paid in
the commodities of the country.”

“Item. Any person of the same descent,
who shall at their own expense, transport him-
self or herself, men or women of the ages afore-
said, shall have assigned to him or her, to his

or her heirs and assigns, 50 acres of land, paying yearly a quit-rent of twelve pence sterling, to his Lordship and his heirs, as before stated."

"Item. Any children of the same descent, transported at the expense of any person, Boys under the age of 16 years, Girls under the age of 14 years, shall have granted to them and their heirs 25 acres of land, paying his Lordship and his heirs, sixpence sterling, rent per annum as aforesaid stated."

"Imprimis; One musket or bastard musket, "with a snap hance lock.

"Item. Ten pounds of powder.

"Item. Forty Pounds of Lead Bullets, Pistol "and Goose Shot, each sort some.

"Item. One Sword belt.

"Item. One Brandilier and Flask.

"Dated at London, tenth day of Nov. 1641."

"C. BALTIMORE."

KILTY Conditions propounded by the Right Honor-
P. 38. able Cecilius Lord Baron of Baltimore, &c.

S. 1. Every person being of British or Irish descent, who shall transport into the Province of Maryland, at his own expense, 20 persons of the like descent, shall have conveyed to him, his heirs and assigns, 2,000 acres of land, rendering and paying yearly, for the first seven years, unto his Lordship and his heirs, the rent of forty shillings sterling, in silver or gold, or the value thereof, in such commodities as his Lordship and his heirs shall accept; and for the next fourteen years in lieu thereof, forty bushels of wheat yearly, as is now generally growing, and used in England, and according to English measure,

or six pounds sterling, in silver or gold, at the choice of his Lordship and his heirs, and after the said fourteen years, in lieu thereof, the twentieth part yearly, of the annual yield and profits, or in lieu thereof, ten pounds sterling, in silver or gold, at the choice as aforesaid, of his Lordship and his heirs for ever.

S. 2. Liberty to let or sell such land in fee simple, reserving to his said Lordship, and his heirs, for ever the rent.

S. 3. Every person of the like descent, British or Irish, to be allowed to take up fifty acres on the same terms, paying yearly to his Lordship and his heirs, for the first seven years, a rent of one shilling sterling, and for the next fourteen years, in lieu thereof, one bushel of good wheat, as is now generally growing and used in England, or three shillings sterling in silver, to his Lordship and his heirs, and after the said fourteen years, in lieu thereof, the twentieth part of the annual yield and profits, of the said fifty acres yearly, or in lieu thereof, twenty shillings sterling, in silver or gold, to his said Lordship and his heirs for ever.

S. 5. Every Man servant of British or Irish descent, that shall have been transported into the Province at the cost of any person whatsoever of the like descent, shall at the expiration of the time of their service, so as it be not less than three years after their arrival, and shall have so much land granted to him and his heirs and assigns, from his said Lordship and his heirs, and upon such terms and conditions, as if such servant had transported himself into the said

province, at his own proper cost and charges.

KILTY. Then follows the Commission to William Stone, as Lieutenant Governor, dated the 17th of August 1648, who then published his Lordship's orders for persons to come and take up such lands as they seated themselves upon, contrary to the conditions of plantation, propounded by the Proprietary.

Given at Saint Maries the 13th day of April, Anno Domini, 1649.

WILLIAM STONE.

P. 45 A Commission annexed to the Conditions of Plantation, de Anno 1649. **C. B.**

CECILIUS, &c.

Given at London under our Hand and Greater Seal at Arms, the second day of July, in the year of our Lord 1649.

Conditions propounded by the Right Honorable Cecilius Lord Baron of Baltimore, Lord and Proprietary of the Province of Maryland, &c.

C. B.

P. 47. Whatsoever person being of British or Irish descent, shall transport at his own charges thirty persons of the same descent as aforesaid, into the Province, shall have 3,000 acres of land, English measure, conveyed by grant under the Great Seal to him and his heirs, assigns for ever, rendering and paying unto his said Lordship and heirs annually, a rent of £3 sterling.

Any lesser or greater number of persons of the descent aforesaid, shall have granted to them, on the same conditions as aforesaid, to him and his heirs and assigns, paying to his Lordship and his heirs, an equal proportion of rent.

Given at London under his Lordship's Hand and Greater Seal at Arms, the second day of July, 1649.

KILTY Then follow two Proclamations, by two different Lieutenant Governors, concerning the land settled upon, without the occupier having obtained any grant under Patent.

P. 54. "Extract of Instructions from the Proprietary to the Governor and Council, dated the 12th November 1656."

To every servant that hath and shall serve out his time, with a Planter or Adventurer, there and hath and shall approve himself faithful to his Lordship, fifty acres, paying the usual respective yearly rent of one shilling sterling, for every fifty acres, and so in proportion for any greater quantity of land, to be paid to his Lordship and his heirs."

"C. BALTIMORE."

P. 55. "Cecilius, Absolute Lord and Proprietary of the Provinces of Maryland and Avalon, Lord Baron of Baltimore, &c."

To our Right Trusty and well beloved our Lieutenant of our said Province of Maryland, for the time being, Greeting."

1658. After reciting some prior "Conditions of Plantation," his Lordship's instructions are.

That from and after the 20th of June next, you cause to be reserved upon every grant, the rent of two shillings sterling, for every fifty acres, to be paid yearly, to us and our heirs for the same for ever, and one years rent for a fine according to the rent which shall be reserved in the Patent or Grant.

Given under our Hand and Greater Seal at Arms, the two and twentieth day of September, in the seven and twentieth year of our Dominion over the said Province of Maryland, and in the year of our Lord God one thousand six hundred fifty and eight."

P. 57. "A declaration by the Lord Proprietary of Maryland."

This recites the former order of the 22nd of September 1658, and is dated. "Given under our Hand and Lesser Seal at Arms, this 4th day of October, in the 29th year of our Dominion over Maryland, and in the year of our Lord God 1660."

P. 59. "Extract from Instructions from the Proprietary (Cecilius,) to the Governor Charles Calvert, dated the 28th of July 1669."

"Art. 2. That according to his Lordship's former directions, no land to be granted hereafter from his Lordship in his said Province, for a less rent than two shillings sterling yearly, for every fifty acres, and that special care be taken that the Surveyor General do speedily set out ten thousand acres of the best land, up in the freshes of the Potomac River, for his Lordship's use, and also that no encroachments be made by any other persons upon any lands that are already reserved, or that shall hereafter be reserved, for his Lordship, as also that no lands formerly granted and since escheated or forfeited to his Lordship, be granted away upon rights of Plantation or otherwise, without special warrant under his Lordship's Hand and Seal."

KILTY. We have noticed, among enteries preparatory
P. 78. to the issue of Warrants, those claims not founded on the conditions of Plantation, but flowing from the special favour of the Proprietary. Of these some were themselves, denominated Special Warrants, others were called Gifts, Grants, Orders, &c. They were in short directions sometimes by letter to the Governor; on other occasions by more formal precepts, to cause a certain quantity of land not already granted or reserved, to be laid off for the person therein named, and a Patent thereupon to be granted to such person, upon conditions particularly described in the order; for it is to be observed, that although the Proprietary frequently bestowed land for very trifling and sometimes for mere nominal considerations, *he never made a grant without some reservation of rent or services.*

Copy of his Lordship's First Instruction, dated London, the 15th of December, 1738.

KILTY, We authorize and empower you, with the
P. 236. advice and consent of our Governor and Secretary, for the time being, to grant any surplus or other lands, our manors and reserves excepted, on such terms, and conditions as shall seem equitable and just, though not under the conditions of four shillings reserved rents, and five pounds caution money, per hundred acres.

BENJAMIN TASKER.

"C. BALTIMORE."

P. 237. "An instruction to our trusty and well beloved Samuel Ogle, Esq. Governor of the Province of Maryland."

This order is to empower the Governor to grant surplus land, on the same terms the original was granted, and allowing them to agree with the Agent for the purchase money, interest thereon, and rent from the date of the original grant, for such surplus.

C BALTIMORE.

“Given at London, this 12th day of August, in the 27th year of our Dominion, Anno Domini, under our Hand and Lesser Seal at Arms, 1741.

By his Lordship's order,

JOHN BROWNING, Secretary.”

PASSED An Act of Assembly concerning deserted
APRIL 29, Plantations, or rent not paid, confirmed among
1650. the perpetual Laws, 1676.

D. LAWS. Lands deserted and rent not paid for three
KILTY, years, or even the rent not paid and due for the
P. 249. same term, it shall be lawful for his Lordship
or his heirs, to grant the same or any part
thereof, to any person agreeable to the Conditions of Plantations then in force.

The following contains the number of acres of manor and reserved Lands in the Province of Maryland, at the death of Charles Lord Baltimore, 1751, the second column, the quantity sold by Lord Frederick, and the third column those remaining at the death of his Lordship, up to 1776, as returned by the Sate Surveyors.

MANORS.			COUNTIES.			acres1	acres2	acres3
Monococy	-	-	Frederick	-	-	10000		13148
Kent	-	-	Kent	-	-	8000	4982	3018
Gunpowder	-	-	Harford	-	-			5603
Queen Ann's	-	-	Queen Ann's	-	-	6000	1678	4322
Nanticoke	-	-	Dorchester	-	-	6000	1223	4777
Woolsey	-	-	Ditto	-	-	2400		3131
Mill	-	-	Ditto	-	-	1924	257	1667
Wicomico	-	-	Worcester	-	-	6000	50	5950
Ann Arundel	-	-	Ann Arundel	-	-	12634	12338	301
Chaptico	-	-	Saint Mary's	-	-	6000		6101
Beaver-dam	-	-	Ditto	-	-	7000		7680
West Saint Mary's	}		Ditto	-	-	4039	2669	1370
Saint Mary's								
Snow Hill								
Saint Johns			Somerset	-	-	1000	226	774
Saint Barbary	}							
Calverton		-	Charles	-	-	6000	2588	3412
Pargaiah		-	Ditto	-	-	10000	8999	1001
Zacaiah		-	Ditto	-	-	9500	4196	5304
Elk North and East	-	-	Cecil	-	-	12000	8024	3976
New Connought and Talbot, call- ed Reserves.	}		Cæcil order to George Talbot, to let these lands on lease, March 19th 1683, Kilty, page 221, the same lands were afterwards sold by the State to Samuel Chase and John Churcham, for 18,545 pounds, 4 shillings, and eleven pence sterling.			20000		20000
My Lady's & My Lady's My Lord's & My Lord's			Baltimore, including reserves, most of these Manors except the two last, were taken up or reserved before 1665, as stated. Alleghany including reserves Lord Fred- erick ordered 10,000 acres of this Land to be taken up 1764, Kilty, page 263 and 4, 125,130 acres were reserved.			45000		45000

183497 47225 146774

Some of these Manors which were only valued at 42,000 pounds, sold by the State Commissioners for upwards of one hundred and sixteen thousand, current money.

The reserves in Ann Arundel County and Cypress Swamp, are not included in this statement, though I presume the present Levin Gale, Esq. has his relations account, however they are to be found without troubling Mr. Gale.

Cecilius Lord Baron of Baltimore, having obtained his grant of the Province of Maryland, 1632, fitted out three Ships at his own expense, for the accommoda-

tion of the new settlers, they sailed in the month of November, wintered in Barbadoes, and arrived in Maryland, in spring of 1633, the expenses of settling the Colony, cost his Lordship from time to time, upwards of 140,000, and his Lordship was for many years without any emolument from the Province, for his own use, as what he recieved he expended for the protection of the Province, and its Inhabitants, with the new settlers whose numbers were between 2 and three hundred, his Lordship sent two of his Brothers, the honorable Leonard and George Calvert; it had been his Lordship's intention to have accompanied them, but upon more mature deliberation, he considered he should be enabled to render them more service by remaining in England, his Lordship had prior to their sailing, appointed his Brother Leonard, Lieutenant General, or Governor; what part George acted, or what became of him, no where appears: about the second or third year, Captain George Evelyn, a cousin of his Lordship's was taking an active part as commander of Kent Island, Baker Brook, Esq. nephew of the Proprietary, acting as one of the Council.

The Governor went to England 1643, leaving Giles Brent, Esq. Treasurer, as his Deputy, and returned 1655. Serious disturbances breaking out at this time in Maryland, the refractory succeeded in driving the Governor from St. Mary's, who flew into Virginia for refuge, having nominated Thomas Green, Esq. as his Deputy, (he had married a sister of the Governor's,) they stole the records and Great Seal, the latter was never recovered.

1645. The Governor returned from Virginia, 1647, he went to England, and 1648 died. (At the close of the disturbances, Lord Baltimore

did not forget to reward those who had taken the lead in opposing this dangerous insurrection, as appears by several grants of Manors, reciting the meritorious services of the Grantee's.)

King Charles being driven from London by the commons, the times continued very troublesome, both in England and America, until the restoration of Charles the II. The reformers in America made discensions amongst the Colonists, so that at last there was an open Rebellion in the Province, several battles were fought between the Proprietary Government and the Insurgents, who, 1652 took Governor Stone, tried him, when he was found Guilty and sentenced to be Shot, but he was so much beloved by the Soldiers that they did not dare to put the sentence into execution.

24th JUNE, The Proprietary appointed his brother Philip
1660. Calvert, Esq. then his Secretary, Governor.

1662. The Proprietary sent over his only Son Charles Calvert, Esq. whom he appointed Governor, and his Uncle Philip he appointed Deputy and Chancellor.

1668. Philip Calvert, Esq. acted as a Commissioner with a gentleman from Virginia, for settling the division line from Watkins's Point across the Peninsula to the sea, William Calvert, Esq. Nephew of the Proprietary, was Attorney General, afterwards Commissary General.

1671. The Governor paid a visit to his Father in England, having first appointed his Uncle Philip Calvert, his Cousin William Calvert, also his Cousin, Baker Brook and *** White, Esq's. his Deputies.

1671. The Proprietary directed two Manors of six thousand acres each, to be laid off and reserved in each County, where it had not been done, a part of which was to be at the disposal of his son and heir Charles the Governor.
1673. Lord Baltimore authorised the leasing of his Manor Lands for thirty years, or three lives, fixing the rents the same as his quit rents.
1674. Governor Charles Calvert returned from England.
- Nov. 30th 1675. Cecilius Lord Baron of Baltimore died, and was succeeded by his only son Charles.
1678. Charles Lord Baron of Baltimore, went to England, appointing his eldest son Cecilius Calvert, Governor, his Deputy, Jesse Wharton, Esq. The Assembly had passed an Act, compelling the Virginians to pay duty for anchorage in the Potomac, which they complained of to his Majesty, as also that Lord Baltimore had not assisted them against the Indians; the last he refuted, and the other he had a right to
1681. by his Charter His Lordship then returned to Maryland. His son Cecilius and Colonel Wharton had both died during his absence.
1682. Contentions took place between Lord Baltimore and Mr. Penn, about the boundary on Eastern Shore meeting; Mr. Penn produced a Letter from the King, directing his Lordship to measure his limits from Watkins's Point, on the South two degrees of 60 miles each only, which of course would fall short of the fortieth degree north latitude, his Lordship replied, that a Royal Mandate could not deprive him of what had been granted him under the Great Seal, and

told him his Majesty had been imposed upon.

1684. The Lord proprietary went to England again on business, when he appointed his son Benedict Leonard Calvert. (a minor,) Governor, Colonel George Talbot, his nephew, and eight others Commissioners General, and in 1685, William Joseph was appointed President of the Council; 1686 and 1688, Assemblies were held under Benedict Leonard Calvert, and Deputy Governors, William Joseph, President.

Lord Baltimore was outlawed 1690 in Ireland, though he had never been there; this being proved it was reversed; his Lordship was also about this time made pay 2,500*l* on account of some duties which the Commissioners of the Customs in England, stated had been lost in Maryland, in consequence of his Lordship's interference; his Lordship, whilst Governor, during the life of his father, had been collector of the customs, to prevent the people being harrassed, with giving Bonds on clearance of their ships.

The proprietaryship was taken from Lord Baltimore on account of his religion, by King William and Queen Mary. It was remarked at this time that there was a printing press in this Colony for many years, and that none of the others had one.

Benedict Leonard Calvert being deprived of his appointment as Governor, went to England.

1692. William and Mary confirmed to Lord Baltimore a Fee of fourteen pence tonnage, on ships coming into any Harbour within this province, of certain descriptions.

Charles Carroll, Esq. about this time succeeded Colonel Darnell as chief Agent to Lord Baltimore, in conjunction with ***** Somerset, Esq. who had married Maria his Lordship's sister.

1699. Messrs. Richard Bennett, and James Heath took a lease of the quit rents from Lord Baltimore for seven years.
1701. Lord and Lady Baltimore, were in Maryland at this time, as appears by a book printed by Thomas Clarkson, called the Memoirs of the Private and Public life of W. Penn, page 178, but being deprived of the Proprietaryship, we cannot tell how often, or exactly when he was in the Province, or how long he remained.
1712. Mr. Carroll being in England, Lord Baltimore gave him instructions as Agent, to receive his fees on land affairs, as if not demanded by any other person, although the Chancellor and Secretary, officers of the Crown, had exacted them for some time.
- FEB. 21, Charles Lord Baron of Baltimore, died, leaving his only Son Benedict Leonard Calvert, who succeeded him, but who only lived to the 5th of April 1715, new style. Queen Anne having promised Charles Lord Baltimore to reinstate his Son in the Proprietaryship, the same had been granted to Cecilius, provided he would become a Protestant, did on the day of 1713, before the Bishop of Hereford, renounce the Catholic Faith, and became a Protestant.

1715. Charles Calvert, Fifth Lord Baron of Baltimore, now becoming Proprietary of the Province of Maryland, on a confirmation of the original grant to Cecilius by his Majesty King George the I. did in conjunction with his Guardian, Lord Guildford, send out a commission, bearing date the 30th of May 1715, to Governor John Hart, continuing him as Governor, under the Proprietary Government.

Benedict Leonard, Lord Baron of Baltimore, had sent out instructions to Mr. Carroll, but his Lordship died before he received an answer.

KILTY. Mr. Carroll was appointed chief agent under P. 224. a commission from Charles Lord Baltimore, and his guardian Lord Guildford, dated at London, twenty-fourth day of March, in the year of our Lord seventeen hundred and fifteen.

“BALTIMORE.
GUILDFORD.”

In trusto in officio, Secretar
customan decimo sexto
die April 1716, Jno. Manly.



1720 John Hart, resigned his appointment as Governor, in the month of May, and Charles Calvert his Lordship's uncle, was appointed Governor; great complaints had been made by Governor Hart, of the too great power given by his Lordship to Charles Carroll, Esq. the letters pro and con, are in the land office.

1727 The Governør Charles Calvert, Esq. died, and his Lordship appointed Benedict Leonard

Calvert, Esq. his brother, governor, F. R. S. and member of Parliament for Harwich.

1728 His Lordship appointed his brother, Edward Henry Calvert, Esq. commissary General, and President of the council.

1732 Benedict Leonard Calvert, Esq. having been sometime unwell, embarked for England, and died on his passage. Samuel Ogle, Esq. was appointed Governor, by his Lordship, on his brother leaving Maryland.

1732 Charles Lord Baron of Baltimore, arrived at Annapolis, Maryland; before he left England he had been appointed gentleman of the Bed-chamber, to Frederick, Prince of Wales, Father to King George the Third, and a member of the Royal society; on his return he was appointed one of the Lords of the Admiralty, and elected member of Parliament for the County of Surrey. His Lordship returned to England 1734, but often after visited the Province, his stay was short, and in the Summer months.

Thomas Bladen, Esq. a son of one of the early adventurers, went to England, where he married Barbara, daughter of Sir Theodore Janssen, and eldest sister of Lady Baltimore.

1732 William Janssen, Esq. his Lordship's brother-in-law, accompanied him to Maryland, was a member of the Council as also his Lordship's Secretary.

1742. Thomas Bladen, Esq. returned to Maryland, having been appointed Governor by Lord Charles.

1747. Thomas Bladen, Esq. resigned his appointment as Governor, and went to England; Sam-

uel Ogle, Esq. was again by his Lordship appointed Governor.

Lord Baltimore about this time, sent out an illegitimate son of his, named Benedict Swingate, who at the instigation of Governor Ogle, with his Lordship, was afterwards called Calvert, for whom Lord Baltimore bought the Mount Airy estate of his brother-in-law, *****Hyde, Esq. Merchant, London, and gave it to Leonard Calvert, Esq. who was for several years one of the Council, and one of the Judges of the Land Office.

APRIL 23, Charles Lord Baron of Baltimore died, when
1751. his only son, Frederick Calvert, Esq. became Lord Baron of Baltimore.

1753. Frederick Lord Baron of Baltimore, on coming of age, appointed Horatia Sharpe, Esq. Governor of Maryland,

1768. Lord Frederick appointed Robert Eden, Esq. Governor, instead of Horatia Sharpe, Esq.

1771. Frederick Lord Baron of Baltimore died, and the Governor, Robert Eden, did not apprise the Province of his decease 'till 1773, when a suit had been pending between Mrs. Browning and Mrs. Eden, his Lordship's executors, some time, of whom the Governor was one, and Henry and Frances Mary Harford.

Having stated the "Conditions of Plantation," it appears perfectly clear, every gentleman knew what he was taking, and it was equally clear, that it was a bargain, more for the advantage of the grantee, than the granter to take lands on the terms they did; the grantee having been obliged to sell his estates in Yorkshire, to procure money to protect the Province and its settlers. In many instances the grantee had only to

pay the office fees, when a wheat rent was taken; nor does it appear there was any caution or purchase money paid until 1658, and even after it was in many instances remitted. However the grantees having taken the lands on the terms propounded, what equitable or just right have their descendants to refuse payment of their rent, or an equivalent sum, after deducting every fair deduction that can be made for collection of taxes &c: in some cases it is less than half a cent, and in others, less than a cent per acre, annually.

By an Act of Assembly passed the 29th of April, 1650, and again confirmed 1657, by the Upper House, and confirmed among the perpetual laws 1676, ch. 2, the quit rents are confirmed to Lord Baron of Baltimore, and his heirs for ever.

Passed By a supplementary Act, to an Act, entitled Nov. 17 an Act to aid the title of purchasers of lots in 1753. Princess Anne Town, in Somerset County, it is c. 33. enacted by the present act that the said act of 1751, shall not bar or any ways prejudice his Lordship's right to quit rents. There is also, chapter 25, S. 15, 1751, an Act conforming quit and all other rents, to his Lordship, his heirs or successors. And then in 1780, the quit rents bequeathed by his Lordship to his daughter Louisa, at that time a lunatic, having an infant son, saying it is not proper you should pay rent to a British subject. Is it not equitable and just that if you wished to be relieved of the rent you should pay its value? let him or her be what subjects they please, equivalent to the terms you or your ancestors agreed upon, it was a bargain between man and man; Lord Balti-

more had lands to dispose of; he published the terms, you sought his agents and applied for it, and was well satisfied to have it on those terms, and you was always protected by his Lordship in those lands—then how has his Lordship's heirs forfeited those rents? How does any one know what subjects we should have been in 1776; we were not capable of judging for ourselves, nor were you for us. Your ancestors came here with mine, acting from the same principle, though the means might not be equal; at any rate all came out to better their fortunes, and I trust were equally industrious either in mind or body; for the greatest part of the time of the early settlements, you will find there were more of the Proprietary's relations and connexions in the Province than those of any other individual family.

As to the Manor lands, I do not understand on what grounds they were confiscated, they were as much private property as any lands in the state. You were well aware of all the circumstances concerning the parties to whom they belonged; you had Lord Charles' will, also Lord Frederick's; you had experienced the conduct of the one and the other; you knew the situation of the Hon. oLuisa Calvert, then Mrs. Brown- ing; you could not say she deserted your cause, she had not the power of assisting you, or even herself or child, then what blame can you attach to her? Some of these Manors were taken up in the year 1635, in Saint Mary's, and the greater part before 1665, and leased out before 1680. Were you not all British subjects before the

year 1776? Had not a person living in England prior to that date, a right to hold land in

MR. HIDE. America?* and had not an American an equal right to hold land in England, and did ever one of the Americans lose such lands by confiscation

The case of Miss Curson's of Baltimore, who lately recovered, and sold some lands near London. or otherwise? Mr. Harford, you said had no legal claim against the State, and as to Mr. Browning, he had no power to dispose of his wife's property.

I trust you will allow me to say that I consider myself as justly and equitably entitled to quit-rents and Manor lands, which were formerly occupied and possessed by my grandfather, the Right Hon. Charles Lord Baron of Baltimore, as any gentleman who holds land in the State, all of which emanated either from his ancestors or Lordship's title; and as to the land which I claim as their descendant, their Lordships paid much more for than any man in the State.

I shall now conclude with stating what was said by that great man William Pinkney, Esq.† in Baker street, London, to Robert Smith and myself, which was, "that it was a bad business confiscating the Proprietary Property in Maryland, the State is very rich, and I do not doubt, if you will go over to America, they will give you one hundred thousand pounds."

The statements which I have made, I trust every gentleman who reads them will find correct, and I flatter myself are such as cannot give offence to any one; am therefore with respect, Gentlemen,

Your very ob't. humble servant,

CHARLES BROWNING.

†C. B's Pamphlet, Page 11

P. S. The right of Property being inviolable and sacred, no one ought to be deprived of it, except in cases of evident public necessity, legally ascertained, and on condition of a previous just indemnity.

CASES IN POINT.

- WM. PENN'S** descendants, Proprietors of Pennsylvania, received 130,000*l* sterling, for quit-rents, and was allowed by the State to retain all their Manors and Reserved lands.
- KAIN** Proprietary of the state of New Jersey, retained all his own property, and continues to receive his rents, and Grants out waste lands, as before the 4th July, 1776.
- F. FAIRFAX,** although he went to England 1776, retained all his property, which he afterwards sold to Bowley Cohston, and general Harry Lee.
- THORNTON.** Joined the British army, was allowed to retain his property.
- ALEXANDER** Was brought up in the British army, returned to America a few years since, brought an
- JEKYLL** ejectment, recovered an estate which had been confiscated, formerly belonging to his
- CHALMERS** mother, (a Miss Jekyll,) in Kent County, Maryland.
- LAWSON AL-** Recovered an estate in Cecil County, Ma-
- EXANDER,** ryland, which had been confiscated, on account of his Father having joined the British army, and gone to England.
- HOOD,** Joined the British army, and his estate in Ann Arundel County, Maryland, was confiscated, but was afterwards given up to his sisters.
- WHEATON'S** The Church of England Protestant Socie-
- REPORTS,** ty, for propogating the gospel in foreign parts.
- V. 8, P. 464.** Society &c. &c. &c.

V

Newhaven.

Many cases more, of a similar nature have occurred.

TO THE

LANDHOLDERS

OF THE

State of Maryland.

Baltimore:

PRINTED FOR THE CONSIDERATION OF LANDHOLDERS.

1825.

THE UNIVERSITY OF CHICAGO



ANALYTICAL CHEMISTRY

—

1911

TO THE

LANDHOLDERS

OF THE

State of Maryland.

SUNDRY gentlemen citizens of the state aforesaid, and landholders therein, having met in Baltimore, and elected Col. Howard their chairman, and James Carroll, jun. secretary—taking into consideration the claim which has been lately set up, and suits brought thereon for quit-rents said to be due and unpaid to the representative of Louisa Browning, late of the kingdom of Great Britain, take the liberty of making the following statement, and publishing the following papers now on file in the supreme court of the United States; that the landholders of Maryland may become acquainted with the nature of said claim, and make provision for the due investigation thereof, that the same may be determined on the principles of substantial justice.

If the claim now set up be established, every tract of land patented before the revolutionary war will be liable to a *re-payment* of quit rent, from March 1771 to the year 1776; for we have before us authentic proof, in several instances, and no doubt the fact was generally so, that all quit rents

were settled up to September 1775 inclusive, and paid to the agents of Henry Harford, the acknowledged proprietor of the province.

The present claimant sets up pretensions not only to such rents as have been paid, as he says illegally, to Henry Harford by the people of Maryland, but he claims further rents down to the year 1780, and eventually down to the year 1790; that is to say, for nineteen years, including, we presume interest thereon, from the time each year's rent accrued.

It is the opinion of the gentlemen now assembled, that the entire claim is without foundation, and ought to be resisted at the general expense of all who are exposed thereto; and that it would not be correct to saddle the expense of such defence on any one individual who may be first singled out as an object for prosecution. In fact, it would in the general, be most discreet for any one individual so singled out, and prosecuted to compromise with Mr. Browning, rather than fee lawyers to defend his case; it would cost him much less in actual money, and free him from the trouble of attending a vexatious lawsuit.

The gentlemen now present have therefore concluded, that the landholders of Maryland, on becoming acquainted with this business, will voluntarily make a small subscription, each in proportion to the interest he considers himself as having therein, and have authorised the chairman of the present meeting to send circulars of this statement to particular individuals, principal landholders in the state, who are requested to obtain such subscriptions in their neighborhood, and transmit the proceeds as soon as can be done with convenience, to James Cox, esq. cashier of the Bank of Baltimore, who is appointed Treasurer to this association.

The gentlemen now assembled, flatter themselves that the names attached to this communication, will be a sufficient assurance to all who send their money, that the amount will be faithfully applied to the retaining and seeing the best of counsel, and defraying incidental expenses. It is presumed that if the first suit which comes fairly to trial should go against the claimants, that nothing more will be heard of the affair; but if there be once a beginning of compromises, or a suit be lost by bad management, there will be immediately collecting agents dispatched to every county in the state, the appearance of whom will not be very acceptable to those called on for the said arrearages, a part of which has been already paid, and the balance accruing after the country was free from every description of foreign dominion.

To the end that those interested may be made acquainted with the condition of the suits already instituted, and now depending, the following papers are published.

There is a suit against Charles Carroll of Carrollton, in the supreme court of the United States, in which a special verdict was agreed on and submitted to the court. The following is a copy thereof:

Supreme Court of the United States.

HENRY CASSELL, Admin'r LOUISA BROWNING,

vs.

CHARLES CARROLL, of CARROLLTON.

February Term, 1825.

PLAINTIFF'S STATEMENT.

The declaration charges the defendant in debt for rent.—
The defendant has pleaded the general issue. The Jury found a special verdict, upon which the Circuit Court gave judgment *pro forma* for the defendant.

The Jury find by their verdict that Charles the first, in the eighth year of his reign, granted to Cecelius Calvert, Baron of Baltimore, his heirs and assigns for ever, in fee simple, the province (now State of Maryland,) by a charter dated the eighth of June. Cecelius Calvert died in 1675, and left Charles afterwards Baron of Baltimore, his son and heir who entered into the said province and was seized thereof as the law requires. The said Charles, in 1711 granted, according to the laws of the province, to Charles Carroll, Esq. father of the defendant, a patent for a tract of land containing ten thousand acres, “to have and to hold the

same unto him, the said Charles Carroll, his heirs and assigns for ever; to be holden of us and our heirs, as of our Manor of Baltimore, in free and common soccage by fealty only for all manner of services, yielding and paying therefor, yearly unto us and our heirs at our receipt at the city of Saint Mary's, at the two most usual feasts in the year, viz: at the feast of the Annunciation of the blessed Virgin Mary; and St. Michael, the arch-angel, from and after the second day of April, which shall be in the year of our Lord 1723, the rent of one hundred pounds sterling in silver and gold."

The defendant inherited the said tract of land from his father, and is now seized and possessed of the same. On the 31st day of December, 1698, the said Charles Lord Baltimore executed a deed by which he settled the province of Maryland on himself, remainder on his son Benedict for life—remainder on the heirs male of the body of the said Benedict—remainder to the said Charles in fee.—There were trusts created in the said deed, all of which are determined. The said Benedict died in 1714, and Charles his father in 1715. The said Benedict left issue male Charles his heir, afterwards Lord Baltimore and proprietor of Maryland. Benedict left other sons, all of whom died without issue.

The last mentioned Charles entered into the province of Maryland and was seized thereof, as the law requires; and on the 11th day of July, 1730, executed a deed to trustees, to the use of the said Charles and his assigns for life,—remainder to the use of the first and other sons of the said Charles in tail male successively—remainder to the use of the said Charles in fee. There were other trusts created in the

deed, but they were all determined at the death of Mary, the wife of the said Charles which took place in 1769.

In 1692 an act was passed by the Legislature of Maryland, which declares that no manor, land, tenements, or hereditaments whatsoever, within the province shall pass from one to another, except the deed or conveyance be acknowledged before certain magistrates, and enrolled or recorded. This act was in force when the indenture of the 31st december, 1698, was executed, but the said indenture was not acknowledged or recorded. The Legislature of Maryland, in 1715, ch. 47, passed another act respecting the acknowledgment and enrollment of deeds. This act require deeds and leases for more than seven years to be acknowledged and recorded within six months from their date. It also declares all deeds not acknowledged and recorded according to the provisions of the act of 1692 to be void.—The deed of 11th July, 1730, was neither acknowledged or recorded.

The last mentioned Charles Lord Baltimore had issue only one son named Frederick, and two daughters, one named Louisa, (who is the Plaintiff's intestate,) and the other named Caroline. The said Charles Lord Baltimore being seized of the province of Maryland as aforesaid, made his will in 1750, and devised the province of Maryland to trustees for the use of his son Frederick and his assigns for life—remainder to the use of the sons lawfully begotten of the body of the said Frederick, successively in tail male—remainder to the daughters of the said Frederick. “And in default of such issue then to the use and behoof of Louisa, my eldest daughter, her heirs and assigns for ever.”—Charles Lord Baltimore died seized the 23d day of April,

1751. The said Frederick Lord Baltimore died without lawful issue, on the 4th day of September, 1771.

Louisa, the plaintiff's intestate, was married to John Browning, on the 15th day of May, 1762, and remained Covert Baron of the said John until 1792, when he died.— The said Louisa was a lunatic from the year 1780 till the day of her death, which took place in November, 1821.— She has never been in the State of Maryland since the death of her father. Letters of administration were regularly granted to the plaintiff, on the 17th day of April, 1823.

Frederick, the son of Charles Lord Baltimore, entered into the province of Maryland; and was seized thereof as the law requires. On the 1st day of July, 1761; the said Frederick and Cecelius Calvert his uncle, executed a deed of bargain and sale, to Thomas Bennett and William Sharp, of the province of Maryland and its appurtenances, for the purpose of docking the intail of the province. On the 8th April, 1767, the said Frederick executed a deed of lease and release of Annarundel manor, and all other manors held by the Lord proprietary in the province to Bennett Allen, and recoveries were afterward suffered of the said manors in pursuance of the said deed of lease and release. On the 4th day of March, 1771, Frederick Lord Baltimore made his will, and devised the province of Maryland and all its appurtenances to Henry Harford.

And the Jurors further find, that upon the death of the said last mentioned Frederick Baron of Baltimore, Henry Harford, the devisee named in his will was a minor and a ward under the guardianship of the court of chancery in England, and so continued until 1779. That the said Henry Harford as devisee as aforesaid, was recognized and acknowledged by the provincial government of Maryland, as

the lawful proprietor under the charter, and by his guardians with the knowledge and consent of the British government, entered into the possession of the government of the province of Maryland, and received the rents and revenues thereof as proprietor, until the beginning of the disturbances which separated the United States of America from the British government. That those disturbances began in 1774, at which time the people of the province of Maryland, took the government of the said province into their own hands, and ousted the officers of the proprietor—and the government of the said province so continued in the hands of the people until the declaration of independence, the 4th of July, 1776. That no quit rents, nor any revenues which fell due in the said province after the year 1773, were paid to the proprietor or his officers—that after the revolutionary war, the British government paid to the said Henry Harford, £60,000 as a compensation for his losses in Maryland by the revolution—and paid to the above mentioned John Browning, and to Robert Eden, who married the above mentioned Caroline, £10,000 each, as a compensation for their losses in the said province by the said revolution. That suits in the chancery court of England were instituted in 1772, by the said Browning and wife, and the said Eden and wife, against the said Harford, to recover the province and revenue of the said province of Maryland, which suits continued until 1782, when the said bills were dismissed by the complainants.

In 1780, the legislature of Maryland passed an act which declares that “the citizens of Maryland from the declaration of independence and for ever, be and they are hereby declared to be exonerated and discharged from the payment of the aforesaid quit rents, and that the same shall be forever abolished and discontinued.”

For the plaintiff it will be contended, 1st, that the deeds of 1698 and 1730, are void under the acts of assembly, and that Charles Lord Baltimore, the testator of the plaintiff's intestate, was tenant in fee simple of the province of Maryland at the time of his death in 1751.

2nd. If those deeds were not void, then the said testator was tenant in tail under those deeds with reversion in fee of the province and the appurtenances, which reversion was a devisable interest, and was well devised to the plaintiff's intestate.

3d. Payment of rent to Henry Harford or his agents, does not discharge the defendant from his liability to pay the plaintiff.

4th. It will be contended, that the act of 1780, which professes to abolish the quit rents from and after the declaration of independence, is void under the treaty of 1783.

D. RAYMOND,

Attorney for Plaintiff.

On the subject of this special verdict, the gentlemen now assembled, must be free to declare that the said statement is incorrect, and has omitted facts in their estimation, material to the cause. The said statement, however, is understood to be subject to addition and amendment.

The second paper submitted, is the argument, filed by the plaintiff's counsel in Mr. Carroll's cause, which is as follows:

Supreme Court of the United States.

HENRY CASSELL, Admin'r LOUISA BROWNING,
vs.
CHARLES CARROLL, of CARROLLTON.

February Term, 1825.

MAY IT PLEASE YOUR HONORS:

We are first to inquire what estate the second Charles Lord Baltimore had in the province of Maryland, at the time of his death, in 1751. If the deeds of 1698, and 1730, were void, because not acknowledged and recorded according to the provisions of the acts of Assembly of Maryland of 1692 and 1715, then he was tenant in fee simple of the province. If those deeds were valid, then he was tenant in tail of the province, with reversion in fee expectant on the determination of the estate tail. The Court of Appeals of Maryland have decided, in the case of Calvert's Lessee, *vs. Eden*, 2 Harris and M'Henry's Reports, page 335, that the deeds of 1698, and 1730, were valid. The Lord Proprietary granted his lands by deeds called patents, which were never acknowledged, and to hold that those deeds were void for that reason, would vacate all the titles in the state, and hence the Court inferred that the Legislature did not intend to include the Lord Proprietary in those acts. This decision we are not disposed to controvert; in-

deed, the land office was under the absolute control of the Lord Proprietary, and the Legislature never claimed the right to interfere with its regulations. It was only after the lands had been granted that the Legislature claimed the right to pass laws respecting them. It might, perhaps, be doubted whether deeds conveying the whole province, fall within the same reason; but as the highest court in the state has decided that they do, and as a contrary decision at this late day would shake many titles in the state, we presume it would be vain to press the point upon the court.

The Court of Appeals of Maryland have also decided, in the case of Calvert's lessee *vs.* Eden, (2 Har. and M'Henry, page 337,) that the second Charles Lord Baltimore, was tenant in tail with reversion in fee of the province of Maryland, and its appurtenances, at the time of his death, in 1751. By his will, he undertook to devise the province to trustees, for the use of his only son Frederick, and his assigns, for life; remainder to the use of the sons lawfully begotten of the body of the said Frederick, successively, in tail male; remainder to the daughters of the said Frederick; and in default of such issue, then, to the use and behoof of Louisa, the eldest daughter of the Devisor, who is the plaintiff's intestate. This devise to Frederick, and the heirs, male of his body, was void, under the decision of the Court of Appeals, above referred to: because, the devisor could not break the entail under the deeds of 1698 and 1730 by a devise; and Frederick was, therefore, tenant in tail under those deeds. But the reversion in fee in Charles Lord Baltimore, was a devisable interest, and was well devised to his daughter Louisa; vide 2 Harris and M'Henry, 337.

Frederick Lord Baltimore died without lawful issue, on the 4th of September, 1771, and then the right of Louisa

Browning accrued, under the will of her father, unless Frederick, her brother, did some act in his lifetime by which he docked the entail, and thereby defeated the remainder. The only act he did with reference to the whole province, and which could affect the quit-rents reserved upon the lands granted, of which the tract owned by the defendant is one, was on the first day of July, 1761, jointly with his uncle, Cecil Calvert, the heir presumptive of the province, to execute a deed of bargain and sale of the province, and its appurtenances, to Thomas Bennett and William Sharp. The object of this deed was to dock the entail of the province, and thereby bar the remainder to his sister Louisa; and if it was effectual for this purpose, then the plaintiff has no claim.

Without going into an investigation of the question, whether, at common law, an estate tail can be docked by a simple deed of bargain and sale, we apprehend it will be sufficient to cite the decision of the Court of Appeals of Maryland upon this self-same deed. That Court has expressly decided, that the entail of the Province was not docked by this deed. Vide 2 Harris & M'Henry, 338, Calvert's lessee, *vs.* Eden.

Calvert, the plaintiff in that case, claimed title to a tract of land called Anne Arundel Manor, under the will of the second Charles Lord Baltimore, the same instrument under which the plaintiff in this action claims. Eden, the defendant, claimed under the will of Frederick Lord Baltimore. The validity of Frederick's will depended upon the validity of the acts he had done to dock the entail of Ann Arundel Manor. The Lord Proprietaries had caused sixteen manors, of ten thousand acres each, to be surveyed for their own use. In April, 1767, Frederick Lord Baltimore executed a deed of lease and release of Anne Arundel Manor, and all

the other manors in the Province held by the Lord Proprietary, to Bennet Allen; and recoveries were afterwards suffered of all the said manors, in pursuance of the above deed of lease and release. It was a doubtful question, whether these recoveries were legally executed; and the defendant's counsel made it a strong point in the case, that the entail of the whole Province, which of course included the Manors, was docked, and the remainders barred by the deed of bargain and sale of 1761. The court held the entail of Anne Arundel manor to be docked by the recovery suffered in pursuance of the deed of 1767; and also expressly decided, that the entail of the province was not docked by the deed of bargain and sale of 1761. See 2 Harris & M'Henry, 338.

Sir Francis Hargrave was of the same opinion. See same book, page 343.

The decisions of the Court of Appeals is the supreme law of the state; and, in pursuance of the above decision, the Legislature afterwards passed an act authorising the docking of estates tail by simple alienation. It appears, therefore, that Frederick Lord Baltimore did no act in his life time, by which he docked the entail of the Province; and Louisa Browning's right to the Province, and her right to the rent demanded in the present action, accrued on the death of her brother, September 4, 1771. The rents are made payable semi-annually, at Lady-day; which is the 25th of March, and Michaelmas, which is the 29th September. As no rent accrues until pay-day, the plaintiff is entitled to demand the rent from the 25th March, 1771.

The next question is, whether payment to Henry Harford, (or his agents) the devisee of Frederick Lord Baltimore, discharges the defendant from his liability to pay the plaintiff. If Frederick Lord Baltimore did not dock the entail of the province by his deed of 1761, it follows that he had no devisable interest in the province, except in the

Manors, of which he suffered recoveries, and therefore Henry Harford took nothing by the will except those Manors. The Province itself—the quit-rents, and all the appurtenances, accrued to the plaintiff's intestate, the devisee of Charles Lord Baltimore. The payment of rent, therefore, to Henry Harford, was payment to a stranger, who had no legal claim, and cannot discharge the tenant from his obligation to pay the legal proprietor. But, in addition to this, the defendant had legal notice, that Henry Harford was not entitled to receive the rents, and he therefore paid the rent in his own wrong, without even a colourable pretext for so doing. In 1772, immediately after the death of Frederick Lord Baltimore, and the occupation of the province by Harford, a suit was commenced in the Chancery Court in England, in right of the plaintiff's intestate, and her sister, who were the devisees of Charles Lord Baltimore, to recover the possession of the province from Harford, and a *lis pendens* is notice to all the world of the claim set up in the action. After such notice, it would be strange indeed if a voluntary payment of rent to a stranger, would exonerate the tenant from his obligation to pay his landlord.

That Harford was recognized and acknowledged by the provincial government of Maryland as the lawful proprietor under the charter, cannot alter the case; because that government was not the proper tribunal to determine the right of the parties. The legislature were the tenants of the Lord proprietary; and if they were competent to determine to whom the rents should be paid, they would have equal right to decide that no rent at all should be paid, and could therefore oust the lord proprietary from the province and his estates altogether. The only act of recognition the legislature did, was to call Henry Harford the lord proprietary,

and pass laws in his name. It was necessary that somebody should be acknowledged as lord proprietary, and that the laws should be passed in his name; and so long as it was in dispute who was the rightful proprietary, the legislature merely recognized the party in possession of the province, until the question of legal title could be determined by the proper tribunal; nor can the fact that Harford was in possession of the province, with the knowledge and consent of the English government, justify the defendant in voluntarily paying the rent to Harford. The executive and legislative branches of the British government had nothing to do with the question in dispute between Henry Harford and Louisa Browning, and their consent that Harford should take possession of the province, was nothing more than a consent to leave the parties to settle their dispute before the proper tribunal. The judicial department of the government could take no cognizance of the case, till it was brought before them by the parties, which it appears was done immediately after the death of Frederick Lord Baltimore. The £10,000 paid by the British government to Mrs. Browning was but a pitiful compensation for her losses in Maryland, independent of the quit rents. She was entitled to all the manorial rights and unpatented lands in the province, of which, at that time, there was a very great quantity. This sum would have been but a poor compensation even for the delay she suffered in consequence of the revolution, in collecting her rents. Her acceptance, therefore, of this sum from the British government, cannot be considered as a relinquishment of her right to collect the rent of her tenants, nor could the English government have intended it as a full compensation, the acceptance of which would preclude her from resorting to her tenants for the rent

due. We conclude, therefore, that the defendant is not exonerated from any part of the present claim by his payment to Henry Harford.

The next obstacle to the plaintiff's right to recover, is the act of the legislature of Maryland, of 1780. This act was passed in May, and professes to abolish the quit rents of the province from the declaration of independence. At the declaration of independence, there were five years' rent in arrear, from March, 1771, the time when Louisa Browning's right accrued, to March, 1776. At the time the act of 1780 passed, there were nine years' rent in arrear. If that act is valid, according to its terms, it cuts off four years of our claim. So far as that act applies in its terms to rent already accrued, and which was a debt due from the defendant to the plaintiff, we contend that it was abrogated by the fourth article of the treaty of 1783, between the United States and Great Britain; and we think, also, that that act, so far as it applied to debts due, was void by the laws of nations. Vattel, lib. 4, sect. 22, expresses himself as follows: "What I have said of things in action being rightfully confiscated, holds thus: If the prince truly exacts from his subjects what they owed to the enemy; if he shall have exacted it, it is rightfully paid: if he shall not have exacted it, peace being made, the former right of the creditor revives, because the seizure which is made during war consists more in fact than in right." This is precisely the case at bar. Rent in arrear is always personal property, and goes to the executor and not to the heir. If it be reserved in money, it is a debt ascertained, for which an action of debt will lie. This debt, the state of Maryland never exacted from the defendant; it still remains unliquidated between the original parties, and, at the restoration of peace, it revived by the laws of nations. But our claim, in this case, does not rest upon the laws of

tions; the treaty of 1783 revives and secures the plaintiff's claim in express terms; and the question has been so repeatedly decided by this court, that it no longer remains open for discussion. The leading case on this subject is that of *Ware, administrator of Jones, vs. Hylton and others*, reported in 3 Dallas, 199. The case at bar is much stronger for the plaintiff than the case of *Ware, vs. Hylton*. In that case the defendant had actually paid the money into the treasury of the state of Virginia, in pursuance of a law of the state; and yet the court decided, that, under the treaty of 1783, he must pay it over again to his original creditor, and look to the state for remuneration. In this case, the money due from the defendant has never been paid to any body, but still remains due. This court has made numerous other decisions to the same effect. See the state of Georgia, *vs. Brailsford*, 3 Dal. p 1.

We do not, therefore, consider the question open for discussion, whether the act of 1780 was effectual to abolish the debts for rents already accrued. We consider our right to recover the rents which had accrued at the date of the act of 1780, as established. From the death of Frederick Lord Baltimore, to May, 1780, the date of the act was nine years.

The next and last question is, whether the prospective operation of the act of 1780, is incompatible with the treaty of 1783. The act of 1780 was manifestly passed, with reference to Henry Harford, and not with reference to Louisa Browning. Had the legislature supposed Louisa Browning to be the rightful proprietor of the quit rents, that act would not have passed. Harford was the illegitimate son of Frederick Lord Baltimore, one of the most dissolute men of the age, who had never been in the state of Maryland, and to whom the state was under no obligation. At the time

the act passed, Harford was two and twenty years of age, and had had sufficient time, after he came of age, to make his election which side to espouse, of the contest for independence. He elected to espouse the side of Great Britain, and his property, therefore, in the state of Maryland, was a proper subject of confiscation. Very different was the situation of Louisa Browning. She was the daughter of Charles Lord Baltimore, the greatest benefactor the state of Maryland ever had, save General Washington. His name and character have been handed down by tradition to the present generation, and are at this day held in grateful remembrance by the people of Maryland. This daughter, whose property we are to suppose, for the sake of the argument, the legislature of Maryland confiscated by the act of 1780, was a wife and a mother, and had therefore, no legal right or power to make an election between the contending parties; and, to cap the climax of legislative iniquity, if it be true that the legislature of Maryland intended to confiscate her property, this wife and mother was also a lunatic. If the legislature of Maryland intended to confiscate the property of such an individual, they did an act of infamy which ought to disgrace the state forever, and make it a hiss and a by word throughout the civilized world. But the legislature intended to do no such thing—the act was passed with reference to Henry Harford, towards whom it would have been a just act, had it applied to him, and the present legislature of Maryland have confirmed this opinion by refusing to employ counsel to defend this cause. They know the act, with reference to Louisa Browning, is an iniquitous one, and they very properly, therefore, refused to disgrace the state by employing counsel to defend it. The defendant, no doubt, entertains the same

opinion of it. This court will, therefore, be justified in giving a very liberal construction to the treaty of 1783, for the purpose of abrogating and defeating the operation of such an unjust act. It will be tender mercy to the state of Maryland to do so. The more completely that act is annihilated, the greater will be the favour rendered the state.

We maintain that that act is incompatible with the fifth article of the treaty of 1783, and is, therefore, void. Among other things, that article provides, "that all persons who have any interest in confiscated lands, by debts, shall meet with no lawful impediment in the prosecution of their just rights." The reasoning of Judge Chase in the case of *Ware vs. Hylton*, 3 Dal. 239, is strictly applicable to the case at bar. Judge Chase supposes that clause was put into the treaty for the purpose of securing liens which British creditors might have upon lands, as security for the payment of their debts, such as mortgages, judgments, &c.; and we say a rent charge is a lien upon land, and falls within the same principle. To illustrate his idea, Judge Chase puts the following case: "Suppose a mortgager paid the mortgage money into the public treasury, and afterwards sold the land, would not the British creditor, under this article, be entitled to a remedy against the mortgaged lands?" And, with equal reason we ask, if that article of the treaty does not secure to the grantee of a rent charge his lien upon the land?

It is proper to state, that in October 1780, the Legislature passed another confiscation act, the enacting clause of which is as follows: "That all property within this state, debts only excepted, belonging to British subjects, shall be seized, and is hereby confiscated to the use of the state." It is true that a rent charge, before the rent becomes due, or before pay day, is an incorporeal hereditament, and not a debt; it savours of the realty, and is, for the most part, subject to the same rules as real property. After the rent has accrued, it is a debt, and becomes personal property. As the case is not to be argued on behalf of

the defendant, it is also proper for us to refer the Court to the case of *Smith vs. the state of Maryland*, 6 Cranch, 306, where the Court decided, "that the thing itself, whatever it might be, ceased by the operation of these (confiscation) laws to belong to, the British subject, and became vested in the commissioners for the use of the state." "The *ces tui que* trust, though not in possession of the property, was, nevertheless, the real owner of it; and if the property, or thing itself, had come into the actual possession of the commissioners, who would have held it to the use of the state, it would seem difficult to maintain the position that a scintilla of interest, or estate, remained for an instant afterwards in the former owner." If the court shall be of opinion that the acts of 1780, chapters 45, and 49, embrace the quit rents, and that the 5th article of the treaty of 1783, does not include them, and that, therefore, the case at bar comes within the principle of the decision in 6 Cranch, however unjust those acts of confiscation may be, we must submit to their legal operation.

The declaration covers the time from the death of Frederick Lord Baltimore, or rather from the last pay-day preceding his death, which was in March, 1771, to March, 1790? If the court shall be of opinion that the treaty of 1783 saves the quit rents from the operation of the confiscation laws, then we shall be entitled to recover, as we apprehend, for nineteen years' rent, otherwise for nine only.

D. RAYMOND.

On this document we leave the public to make their own comments.

There is another suit brought against Gen. Charles Ridgely, of Hampton, in the Circuit Court of the United States. This cause is yet without a statement, and open to that mode of pro-

ceeding therein which may be deemed most advisable by learned counsel; to the conduct of this suit particular attention should be directed. There is yet another suit against Col. Edward Lloyd, of Talbot county; with the condition thereof we are unacquainted.

Col. Howard, General Stansbury, James Carroll, John B. Morris, and Thomas Hillen, are requested, and being present, have consented, to solicit aid from the Legislature of Maryland on this subject, and also to superintend the defences that shall be made in the above suits by the employment of counsel, and performance of any other offices which may seem right to them, for bringing the said cases to a just and honourable conclusion.

It was resolved that 500 copies of the above be printed in a pamphlet form, and distributed under the direction of the chairman.

As nothing is intended by this communication, but the collection of a sum of money from those interested, sufficient to defray the expences of the above law suit, and without the smallest purpose to influence in any form whatever, the court decisions about to be had thereon, it will be considered as such, and care taken so far as can conveniently be done, to prevent any publication of the same, or any part thereof in a newspaper, all which is approved.

JOHN E. HOWARD, *Chairman.*

JAMES CARROLL, Jr. *Secretary.*

Baltimore, April 13, 1825.





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